



{In Archive} RE: Lead disclosure forms  
Kamin, Cody to: Carolyn Levine

10/16/2009 11:28 AM

Archive: This message is being viewed in an archive.

Carolyn,

This should be good for now. I'll let you know if anything else comes up.

Thanks for your help.

Cody

-----Original Message-----

From: Levine.Carolyn@epamail.epa.gov  
[mailto:Levine.Carolyn@epamail.epa.gov]  
Sent: Friday, October 16, 2009 10:29 AM  
To: Kamin, Cody  
Subject: Re: Lead disclosure forms

hi Cody,

I checked with our enforcement office who noted that generally, homes sold at foreclosure are exempt from the LBP Disclosure Rule requirements (see attached Federal Register notice) but there may be case by case specific issues that may affect the requirements. If you have constituents with specific concerns that you would like us to investigate, please let me know.  
(See attached file: Foreclosures-1018.doc)

-----  
Carolyn Levine  
U.S. EPA/Office of Congressional Affairs  
(202) 564-1859  
FAX: (202) 501-1550

From: "Kamin, Cody"  
<Cody.Kamin@mail.house.gov>

To: Carolyn Levine/DC/USEPA/US@EPA

Date: 10/15/2009 10:20 AM

Subject:     Lead disclosure forms

Carolyn,

I'm writing from Congressman Gingrey's office with a question about enforcement of lead base paint disclosure form. If you are not the right person to be contacting I would appreciate if you could point me in the right direction.

My question is: When banks foreclose on a house, are the lenders that re-sell the houses required to sign the lead base paint disclosure form? There is concern from realtors in our district who have been audited by the EPA, and the lenders they have bought foreclosed houses from have not filled out these forms.

Thanks for your help.

Cody Kamin

Office of Congressman Phil Gingrey, M.D.

Member for the Eleventh Congressional District of Georgia

119 Cannon House Office Building

Washington, DC 20515

1. *Transactions to sell properties at foreclosure.* The final rule retains the exclusion for foreclosure sales presented in the proposed rule. While some commenters opposed exempting foreclosure transactions due to the lack of protection for the purchaser, EPA and HUD believe that the circumstances typically surrounding foreclosure transactions make pre-sale disclosure and evaluation unworkable and impractical. Access to properties during foreclosure proceedings is often limited, making evaluations impossible. Such properties typically are sold on an "as is" basis with regard to all structural and environmental factors. Further, these transactions do not necessarily involve direct interaction between the property owner and the purchaser, and the mortgage holder or trustee is unlikely to have information on the presence of lead-based paint and/or lead-based paint hazards. In light of these circumstances, EPA and HUD believe that it would be inappropriate to extend Federal disclosure and evaluation requirements to foreclosure transactions.

This exclusion does not apply, however, to the sale of housing originally acquired through a foreclosure sale and subsequently resold (an expansion of the exclusion recommended by some commenters). In such cases, EPA and HUD believe that the rule's provisions can be incorporated into the sales process since many of the extenuating circumstances of foreclosure sales no longer apply.

Codified at 40 CFR 745.101(a).



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAY 5 2005

OFFICE OF  
ENFORCEMENT AND  
COMPLIANCE ASSURANCE

The Honorable Phil Gingrey  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Gingrey:

Thank you for inviting me to discuss the proposed Animal Feeding Operations (AFO) Air Quality Compliance Agreement. We appreciated the opportunity to talk about this important issue and to learn about the concerns of your constituents.

The agreement, as we discussed, is a voluntary settlement agreement between the U.S. Environmental Protection Agency (EPA) and participating farmers. There is no obligation to participate. It is not a rule, and does not impose any new regulatory requirements of any sort on farms.

As you know, a number of farms have been sued for alleged violations of three laws: The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Emergency Planning & Community Right to Know Act (EPCRA), and the Clean Air Act (CAA). Under the proposed Agreement, EPA and farmers would jointly conduct monitoring to determine emissions factors from various types of operations, across geographic regions and species. Participating farmers will benefit from increased certainty – both in knowing their obligations, and resolving possible current and past liability. The Agreement provides a better approach than any of the traditional alternatives.

During the meeting, you expressed concern about the potential consequences if a farm opted not to sign up. EPA is entrusting the decision on whether to participate to those who know their operations best – the farmer. EPA does not intend to “target” those who do not sign up for enforcement. Farmers who decide not to participate in the Agreement will remain subject only to the same liability that exists currently by virtue of the possibility of litigation.

You also asked whether EPA would consider data from a poultry industry study of emissions from poultry operations. EPA would be willing to consider such data. EPA’s Office of Air Quality Planning and Standards (OAQPS) – the air standards-setting arm of EPA – is charged with monitoring and reporting on air quality, air toxics, stationary source emissions and more specifically in this scenario, developing appropriate emissions factors for all agricultural

sources. OAQPS is committed to the best analysis possible, using the best data available. EPA does not intend to rely exclusively on the results of the air compliance monitoring. OAQPS will consider and evaluate data submitted by poultry farms, and accord it weight consistent with its scientific merit.

Finally, you noted concerns about the choice of scientists to conduct the monitoring. You expressed concern that the scientists would not be familiar with the unique characteristics of Georgia poultry farms. Under EPA's monitoring plan, the science advisor (who has not yet been approved by EPA) will choose the most qualified scientists for the job. Researchers from around the country, with expertise in local operations, will be selected as principal investigators. If the poultry industry participates in the Agreement, EPA will be sure to approve of those with familiarity and experience in the local monitoring to be conducted.

Again, thank you for your letter. I am enclosing a "Frequently Asked Questions" document (also on EPA's website at [www.epa.gov/compliance/resources/agreements/caa/cafo-agr](http://www.epa.gov/compliance/resources/agreements/caa/cafo-agr)) that provides additional information about the Agreement. If you have further questions, please contact me, or your staff may contact Carolyn Levine, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-1859.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom", is written over the printed name.

Thomas V. Skinner  
Acting Assistant Administrator

Enclosure

**Animal Feeding Operations Air Compliance Agreement Frequently Asked Questions**  
**U.S. Environmental Protection Agency, Office of Civil Enforcement**  
**Animal Feeding Operations Air Compliance Agreement**

**Frequently Asked Questions**

**1. What is the Air Compliance Agreement?**

It is a voluntary settlement agreement between the U.S. Environmental Protection Agency (EPA) and participating farmers. There is no obligation to participate. It is not a rule, and does not impose any new regulatory requirements on a participating farm. Rather, under the Agreement, EPA is extending an opportunity to farmers to participate in a national farm air emissions study. During the study, EPA will agree not to sue any participant for violations of several environmental laws. For their part, participants will pay a small civil penalty and contribute funds to the air emissions study.

**2. What are the benefits of the Agreement?**

Right now, it may be difficult for certain farms to determine their compliance responsibilities with respect to air emissions. The focus of the Agreement is on working with farmers to obtain better science to help answer questions about air emissions at farms. The air emissions study will look at air emissions from farms that are from different geographic regions (e.g., west versus northeast), manage different species of farm animal (e.g. swine versus poultry), and involve different types of operations (e.g., hog farms versus egg farms). Farmers will benefit from increased certainty – both in knowing their obligations, and resolving possible current and past liability. EPA feels that this a better approach than the traditional alternative – litigation against individual farms.

**3. What happens if I decide not to sign?**

Farmers who decide not to participate remain subject to possible litigation, just as they are today.

**4. I don't know if there are any violations at my farm. Why should I have to pay a civil penalty?**

By signing the Agreement farmers DO NOT admit any liability or any sort of wrongdoing. The Agreement makes clear that signing is not an "admission that any of its agricultural operations has been operated negligently or improperly or that any such operation is or was in violation of any federal, state, or local law or regulation."

Rather, payment of a penalty is part of the process to obtain a release from liability for possible violations. If you pay your penalty and comply with all the terms of the Agreement, the federal government cannot sue you later for the violations covered by the Agreement. Payment provides participants with the full protections of a settlement.

5. Does the Agreement cover odor and other nuisance problems?

No. The Agreement does not relate to local odor or "nuisance" issues, which generally are a matter of state or local law, but not federal law.

6. What laws are involved in the Agreement?

This Agreement involves air emissions related to three laws: The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), the Emergency Planning & Community Right to Know Act (EPCRA), and the Clean Air Act (CAA).

– CERCLA and EPCRA are statutes that require reporting of releases. They require a phone call, and a form to be filled out if your facility releases certain hazardous pollutants in excess of certain thresholds (e.g., 100 lbs. per day of ammonia or hydrogen sulfide).

– The CAA generally requires a permit if emissions of certain pollutants exceed a certain threshold. The permit may require appropriate pollution controls.

Note that the Agreement does not relate to other types of pollution, such as discharges to water.

7. Does this Agreement cover land application?

No. The Agreement only relates to barns, lagoons, and similar structures.

8. What sort of air monitoring will be done for the national farms emissions study?

Approximately 28 farms will be monitored across the country. Farms will be selected to obtain a representative sample of geographic regions, operating methods, and species. Monitoring will be done at barns and lagoons. Pollutants to be monitored include ammonia, hydrogen sulfide, particulates (dust), and volatile organic compounds. For more information on the monitoring study, please refer to the following website: <http://www.epa.gov/airlinks/airlinks3.html>.

9. I'm a small farmer. Is EPA going to provide any guidance on whether I should sign up?

The Agreement has costs such as the civil penalty. It also has benefits such as participation in the air emissions study and the liability release. Each farmer should carefully weigh those considerations. It is important to note that a primary focus of the national air emissions study is to determine how much air pollution farms emit. The type and quantity of emissions depend on many factors such as species, number of animals, type of operation, and location. Until the study is complete and more data are available, it can be difficult to say what requirements may apply to which particular size and type of operations, and whether these farms emit enough pollutants to trigger regulatory requirements. In fact, the study is designed to answer this question: what size and types of farms may have regulatory responsibilities? EPA is therefore entrusting the decision on whether to participate to those that know their operations best – the farmer.

10. Can I sign up a farm that I haven't built yet?

Yes, but only if all the following conditions are met: (1) You must have all necessary state and local CAFO permits for the facility by July 1, 2005; (2) you must have started construction of the facility by July 1, 2005; (3) the facility must be completed and operational by January 1, 2007; and (4) you must be able to fill out Attachment A to the Agreement for the facility.

11. How do I sign up? What are the deadlines?

The first step is obtaining the Agreement from EPA. It is available on the internet at: <http://www.epa.gov/compliance/resources/agreements/caa/cafo-agr-0501.html>. Detailed instructions on how to fill out the Agreement are available at this site. You may also call (202-564-2230) to have a copy of the Agreement and the instructions mailed or faxed to you. The deadline for participation is July 1, 2005. There will be no opportunity to sign up after that date.

12. How do I get more information?

The best place to get more information is to go to the Agreement webpage at: <http://www.epa.gov/compliance/resources/agreements/caa/cafo-agr-0501.html>. You may also call Bruce Fergusson at (202) 564-1261 if you have questions about the Agreement. Technical questions about the nationwide air monitoring program and the development of the Agency's emissions estimating factors for AFOs may be addressed to Sharon Nizich at (919) 541-2825.



10-000-8724

**PHIL GINGREY**

11TH DISTRICT, GEORGIA

119 CANNON HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-2931 PHONE  
(202) 225-2944 FAX

219 ROSWELL STREET  
MARIETTA, GA 30060  
(770) 429-1776

600 EAST 1ST STREET  
ROME, GA 30161  
(706) 290-1776

115 WEST CHEROKEE STREET  
CARTERSVILLE, GA 30120  
(678) 721-2509



**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**  
**May 21, 2010**

COMMITTEE ON ENERGY AND COMMERCE

SUBCOMMITTEES:

HEALTH

OVERSIGHT AND INVESTIGATIONS

COMMERCE, TRADE, AND CONSUMER  
PROTECTION

POLICY COMMITTEE

CO-CHAIR MEDICAL AND DENTAL DOCTORS  
IN CONGRESS CAUCUS

CO-CHAIR GOP DOCTORS CAUCUS

**The Honorable Lisa Jackson**  
**Environmental Protection Agency**  
**1200 Pennsylvania Avenue, NW**  
**Washington, DC 20460**

**Subject: Cumberland CID and Cobb County Smart Growth Implementation Assistance  
Application – 2010 Request for Letters of Interest (RFLI)**

**Dear Administrator Jackson,**

I am writing to encourage your careful consideration of the grant request submitted by the Cumberland Community Improvement District (CCID) and Cobb County under the Smart Growth Implementation Assistance Program.

CCID and Cobb County are seeking technical assistance to develop greenhouse gas inventory and analysis for a project that will create a model suburban retrofit, transforming the highly populated and auto-dependant, northwest corridor of metro-Atlanta region through the development of a light rail system connecting Cumberland CID and Town Center CID, three universities, three municipalities, Dobbins Air Force base, and two regional employment centers. Specifically, CCID and Cobb County will be developing TOD (Transit Oriented Development) plans with stakeholder involvement and healthy sustainable planning and building tools to address our region's suburban challenges with air quality attainment, long commutes, traffic congestion, energy consumption, water conservation, and transportation choice.

The project addresses several critical issues in Atlanta that could serve as a model for addressing similar issues in suburban areas around the region and the country including; edge cities and suburban strip arterial corridor transformation, accessibility and connectivity to suburban job centers, livability, sustainability, growth and resource management, equity and conservation and metropolitan transformation of next generation.

The Cumberland CID sustainable community model is an ideal profile for this opportunity. Because of Cumberland's size, its position in several state and regional transit strategic plans, and the fact that it is the 'third leg' of the transportation corridors that link Cumberland, Perimeter and Downtown Atlanta, EPA and the Partnership for Sustainable Communities can further their mission by promoting and advancing many of

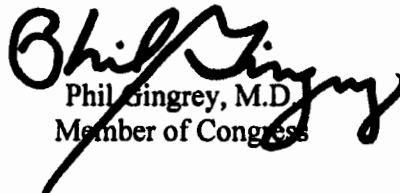
the livability, sustainability and transportation goals. Given Cumberland's position along critical travel corridors, its economic development potential, and its residential, employment, and population growth, it is important for Cumberland and the communities along NW corridor to be 'transit ready' with a plan to implement in conjunction with overall multi-modal systems in the future.

The request is for EPA's experts to develop: 1) greenhouse gas analysis for the status quo, growth as usual, and selected smart growth scenarios and greenhouse gas reduction strategies, coupled with economic impact analysis and return on investment and; 2) development of economic incentive tools and implementation strategies to incentivize GHG reductions by public and private stakeholders. Ultimately, the project intends to apply these strategies and analysis throughout the NW corridor. These models, methodologies, and incentives for implementation are easily replicable to other Suburban Retrofit of other American cities with auto-dependant strip corridors and edge cities.

I would respectfully request your support for the Cumberland CID and Cobb County grant request. Your strong support and endorsement to this grant will further the implementation of sustainable growth in the region, in line with the regional vision and PSC partnership goals.

Thank you for your consideration

Sincerely,

  
Phil Gingrey, M.D.  
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUN 15 2010

OFFICE OF  
POLICY, ECONOMICS  
AND INNOVATION

The Honorable Phil Gingrey  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Gingrey:

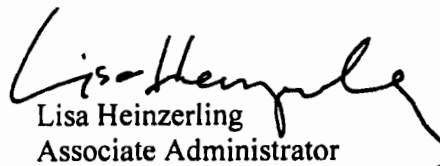
Thank you for your May 21, 2010 letter in support of the application submitted by the Cumberland Community Improvement District and Cobb County for EPA's Smart Growth Implementation Assistance program. I am encouraged by the high level of interest in this program and appreciate your endorsement. This year we received more than 150 letters of interest for this highly competitive technical assistance program.

As states and cities look for ways to accommodate growth, they are also looking to ensure that the natural environment is protected. Through the Smart Growth Implementation Assistance Program, EPA seeks to support these communities, create regional examples that can catalyze similar projects, and identify common barriers and opportunities for smart growth development.

I want to assure you that Cobb County's proposal will receive our full consideration. We will announce the selected communities on the EPA smart growth web site in the early fall ([www.epa.gov/smartgrowth](http://www.epa.gov/smartgrowth)).

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Clara Jones in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3701.

Sincerely,

  
Lisa Heinzerling  
Associate Administrator



**CONGRESSMAN PHIL GINGREY**



MARIETTA DISTRICT OFFICE

219 ROSEWELL STREET

MARIETTA, GA 30060

770-429-1776 OFFICE

770-795-9551 FAX

FAX COVER SHEET

TO:

EPA

DATE AND TIME:

11/18/10

FAX NUMBER:

202-501-1519

TOTAL NUMBER OF PAGES INCLUDING COVER:

4

FROM:

Congressman Phil Gingrey

John O'Keefe

Andrew Johnson

Marsha McKinney

Terri Dann

Jeanette Hutchinson

NOTES/COMMENTS:

Please review attached inquiry for  
Lora LaBarge - Thank you -  
Marsha

Print this form and fax or mail to:  
Congressman Phil Gingrey, M.D. 219 Roswell St. Marietta, Georgia 30060

Authorization Sheet

Date 15 NOV 2010  
Name Exp. 6  
Address 4585 SAGEBRUSH DR  
City, State, Zip KENNESAW, GA, 30152-5442  
Home Phone Exp. 6 Work Phone Exp. 6  
Social Security # Exp. 6 Date of Birth Exp. 6  
Agency Involved US EPA  
Numbers Identifying Case (VA claim, Alien number, tax ID, etc.) N/A  
Date and Place Claim was Filed MARIETTA DISTRICT OFFICE  
Please describe problem in detail

SEE ATTACHED

In accordance with the provisions of the Privacy Act, I hereby authorize Congressman Representative Phil Gingrey or a member of his staff to make the appropriate inquiry on my behalf.

Sincerely,

(Signature)

This request for inquiry by the EPA is based on the following conditions and events regarding property located at ~~Ex-1~~ Marietta, Georgia 30064 with a legal description of 19<sup>th</sup> District, 2<sup>nd</sup> Section, Land Lot 30, Parcel 26, Cobb County, Georgia.

The above referenced property is a 11.748 acre parcel with incorporates a roughly 2.9 acre man-made pond which was created in 1964 through the construction of an earthen dam measuring approximately 290 feet wide, and a height (including 4 feet of freeboard) of roughly 20 feet. At the time of construction, based on existing drain depth, the resulting pond was about 16 feet deep at a maximum.

When my partnership purchased this property in 2003, depth of the pond as estimated by a hired geologic survey team was 12 feet at a maximum with "significant" silt deposits collecting in shallow areas at the northeast corner of the pond. However, the team's report also indicated the general health of the pond, including the fish population, was "excellent".

Since July of 2003, sedimentation has become severe and is now highly noticeable due to overall depth of the pond being continually reduced. Average depth of the pond now appears to be about 6 feet, according to casual inspection by individuals I have authorized to fish the pond. These individuals also report the fish population has dropped dramatically, with health of the fish caught (and released) being very poor. One report stated the resident bass are "starving to death".

This situation - which has been developing at an accelerating pace over the past two years - has caused me to make numerous inquiries with Cobb County, and with the State of Georgia EPD and DOT. None of these government bodies have been willing to assist in identifying or correcting the cause of the sedimentation which is rapidly destroying this local aquatic habitat.

Said sedimentation is clearly due to lack of maintenance of an upstream (about 600 feet) storm water detention facility constructed by Georgia and Cobb DOT in 1995 concurrent with the "4-laning" of Dallas Highway. With this construction, 11 storm sewers were built and routed into the new detention facility through a 42" inlet pipe. The facility also was built with a 42" outflow pipe which was routed to an existing small branch creek. The outflow structure of the detention facility was designed to allow gradual release of collected storm water, thus resulting in some settling of suspended solids coming from Dallas Highway, and a very manageable rate of flow to minimize downstream bank erosion and "consumption" of flow by my pond with its 8" CMP drain.

Unfortunately, since this road construction, no maintenance has been done on the supporting detention facility. (Additionally, it is not clear who is responsible for facility maintenance, due to it being located on land owned by the adjoining cemetery.) Without periodic maintenance, a massive quantity of sediments and silt have filled the base of the facility (estimated via GIS tools at roughly 3500 cubic yards above designed plans) which now prevents any settling of solids AND does not restrain the flow of huge

volumes of storm water – thus causing transportation of suspended solids at a rapid rate to my pond, and to a much lesser extent, stream bank erosion – both of which have choked my pond – now at an ever-increasing rate.

Legally, this certainly results in a “continuing nuisance”. However, prior to pursuing legal remedies for this situation, an inquiry by the EPA would seem wise, thus perhaps eliminating the need for bringing suit on a personal level. For numerous reasons, my goal is not to seek monetary relief through legal action. Instead, it is only to cause correction of the problem behind the destruction of my pond and remediation of the damage – which is clearly being caused by mismanagement of upstream conditions.

I have numerous photographs available, including historical aeriels, of the land, pond, and detention facility should any investigation by EPA require them. As well, I have substantial documentation of meetings with County officials.

Any assistance Representative Gingroy and his staff can provide in this matter will be greatly appreciated.

Managing Member, The Orion Land Group, LLC



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

December 21, 2010

The Honorable Phil Gingrey  
United States House of Representatives  
219 Roswell Street  
Marietta, Georgia 30060

Dear Congressman Gingrey:

Thank you for your November 18, 2010, facsimile on behalf of Mr. *SKP-6* regarding his claim of an alleged lack of maintenance for a stormwater detention facility (Facility) which may have caused a significant amount of sediment to be deposited into his private pond.

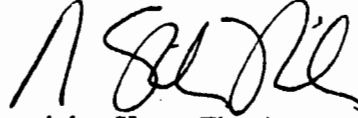
The U.S. Environmental Protection Agency (EPA) contacted the Cobb County Stormwater Management Division (County) in response to your letter. On December 6, 2010, the County conducted an inspection of the Facility, and based on its inspection and photos, we believe the Facility to be adequately maintained and in effective operating condition. Specifically, the inspectors noted no structural defects along the bank area or at the outlet structure, and areas inside and surrounding the Facility were well vegetated with no evidence of massive sediment deposited at the base of the Facility. The Facility is currently handling stormwater runoff from paved roads and a grassy area from a cemetery, which appear to have a minimum impact on sediment loading to the Facility. From the inspection conducted, it does not appear that this stormwater detention facility is the source of any ongoing sedimentation of Mr. *SKP-6* pond.

The county inspection did reveal some erosion from a natural drainage ditch which flows down a bank into Mr. *SKP-6* pond. However, the presence of several large mature trees growing in this area indicates this erosion has been naturally occurring over a long period of time. Mr. *SKP-6* may minimize his erosion and sediment issue by stabilizing some of the bare and scoured soil located on the north side of his property next to his pond. Our understanding is that the silt fencing in the steep slope area needs maintenance, particularly parts of the second role of fencing and fencing along the perimeter of the pond. Mr. *SKP-6* may contact Mr. William Higgins from the County at (404) 419-6434 for further information on how he may minimize erosion and sediment deposit.



If you have questions or need additional information from EPA, please contact me or the Region 4 Office of Congressional and Intergovernmental Relations at (404) 562-8327.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Fleming', written in a cursive style.

Gwendolyn Keyes Fleming  
Regional Administrator

Handwritten initials 'fn' in black ink, positioned to the left of the name.

cc: Bill Noel, GA EPD  
William Higgins, Cobb County

**Congress of the United States**  
**Washington, DC 20515**

July 26, 2007

Mr. James B. Gulliford  
 United States Environmental Protection Agency  
 Washington, D.C. 20460-0001

Cc: Administrator Steven Johnson, U. S. Environmental Protection Agency

Dear Assistant Administrator Gulliford,

It has come to our attention that the Environmental Protection Agency is considering whether to re-register the class of herbicides known as the organic arsenicals. We raise serious concerns about the potential impact to agricultural production and turfgrass management if these compounds are removed from the market. We are encouraged that you have taken the steps to meet with Georgia agriculture production professionals and weed scientists in Washington, D.C. and now are scheduled to visit businesses and farming operations in Georgia that utilize these herbicides. These compounds are very important tools for weed control by Georgia cotton and turfgrass producers, golf course superintendents and landscape professionals. For cotton producers, tropical spiderwort and herbicide-resistant weeds, such as palmer amaranth, MSMA has proven to be an effective tool for control. In turfgrasses, especially bermudagrass, there are no comparable substitutes for the organic arsenical herbicides on certain weeds.

Georgia agribusinesses have a strong stewardship track record and many take extra care in protecting the environment. We know it is important to you that EPA is fair and evenhanded in the collection and evaluation of data regarding the impact these herbicides may pose to the environment. The expertise of agriculture leaders that are already cooperating with you and your staff will, in our opinion, provide you with the scientific and production practice information you need that will help to resolve many re-registration concerns.

As you are aware, organic arsenical herbicides have been utilized for weed control since the 1950s. They are still very important for weed management in these crops and we are of the opinion that their continued registration is critical for these agricultural producers. We encourage you to examine this matter closely and grant every consideration that will allow these herbicides to stay in the market for use by professionals in these very important rural and urban agricultural practices. Thank you for your attention to this matter.

Sincerely,

Nathan Deal

John A. White

Phil Gingrey

Thomas Price

Hank Johnson

John Linde

Frank Scott

John Barrow



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 29 2007

OFFICE OF  
PREVENTION, PESTICIDES AND  
TOXIC SUBSTANCES

The Honorable Phil Gingrey  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Gingrey:

Thank you for your letter of July 26, 2007, regarding the reregistration status of the organic arsenical herbicides. I was very pleased to have the opportunity to meet with many of your constituents and discuss this issue several months ago here in Washington D.C. More recently in Georgia, I gained a better personal understanding of the role of organic arsenicals in agriculture and turfgrass management as other EPA representatives and I met first-hand with cotton growers, turf farmers, and other stakeholders.

As you know, in August 2006, EPA announced the availability of a Reregistration Eligibility Decision (RED) document for the organic arsenical herbicides MSMA, DSMA, CAMA, and cacodylic acid in which it determined that products containing these herbicides are not eligible for reregistration. The Agency extended the initial 60-day public comment period on this RED twice, then reopened the comment period in December 2006 to accommodate requests from stakeholders. Since the completion of the comment period earlier this year, EPA has been carefully evaluating all comments and new information received. We will respond in a document that we will place in the public docket, and the Agency will announce its path forward later this year.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Christina Moody in the Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, which appears to read "James B. Gulliford", is written over a horizontal line.

James B. Gulliford  
Assistant Administrator

Nov. 6. 2007 2:53PM

AL- 07-001-8023

No. 4704 P. 2

PHIL GINGREY  
11TH DISTRICT, GEORGIA

RULES COMMITTEE  
POLICY COMMITTEE

119 CANNON HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-2631 Phone  
(202) 225-2944 Fax



**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

DISTRICT OFFICES

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MARIETTA, GA 30060  
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ROME, GA 30161  
(706) 290-1776

207 NEWMAN STREET, SUITE A  
CARROLLTON, GA 30117  
(770) 838-8130

LAGRANGE, GA  
(706) 812-1776

COLUMBUS, GA  
(706) 320-2040

November 6, 2007

Ms. Stephanie Daigle  
Associate Administrator for Congressional & Intergovernmental Relations  
EPA  
1200 Pennsylvania Ave, Room 3426 ARN  
Washington, DC 20460-0001

INRE:

*Exp-L*

SS:

*Exp-L*

Dear Stephanie:

Attached is the information I received regarding the above named constituent. I would appreciate your review of this information in accordance with established policies and procedures. Please forward your response to my Marietta Office.

Please contact my office if I can be of further assistance to you. Thank you for your efforts in this matter.

Sincerely,

*Phil Gingrey*  
Phil Gingrey, MD  
Member of Congress

PG:mm

## Authorization Form

Page 1 of 1

Print this form and fax or mail to:  
Congressman Phil Gingrey, M.D. 219 Roswell St. Marietta, Georgia 30060

Authorization SheetDate 11/05/07Name Exple

Address \_\_\_\_\_

City, State, Zip CARTERSVILLE GA 30120Home Phone \_\_\_\_\_ Work Phone SAMESocial Security # Exple / Date of Birth ExpleAgency Involved EPDNumbers Identifying Case (VA claim, Alien number, tax ID, etc.) CERT MAIL # 7006 0810 000562Date and Place Claim was Filed OCT 19 07 961704Please describe problem in detail SEE ATTACHMENTS

In accordance with the provisions of the Privacy Act, I hereby authorize Congressman Representative  
Gingrey, M.D. or a member of his staff to make the appropriate inquiry on my behalf.

Sincerely, \

(Signature)

RECEIVED  
NOV 6 2007  
Congressman Phil Gingrey  
Marietta Office

Dear Sir:

October 16, 2007

I purchased 21.7 acres, zoned agricultural, in 1996. In 1997 I registered with NRCS in Calhoun, Georgia as a farm and signed up for the land conservation act in Bartow County.

In 1998 I obtained a permit from the Soil Conservation Department of Bartow County to build a watershed lake for irrigation and completed it in 1999. The lake was designed and engineered through the county soil conservation department and I used John Lamp and Sonny Williamson, who were referred to me by the Department.

In 2000 my neighbor to the North of my property damned up a natural wetland, that normally acted as a retention pond that would slow down the water flow to my property in times of heavy rain. This water was normally directed through a 30 inch cross drain under the county road into my property. This pond was created for its looks only, not for any agricultural use, and without permits. They also drilled a water well to fill their pond. This well also caused the well for an agricultural chicken farm, west of their pond, to go dry.

A few years ago we had a couple of 5 inch rainfalls in a two day period. Without the natural wetland retention pond, the flowing water overflowed the county road. The 30 inch pipe was now inadequate, resulting in a 4 foot wide by 3 feet deep ditch 600 feet across my property washing all that silt and sediment into my watershed lake. Erosion has continued to get worse with every big rain, and I have had to clean out my lake twice.

I saw the need for a retention pond to protect my land from further erosion and to keep the silt from washing into my lake and to protect the water down stream of the lake. In 2002 I obtained a permit from the Soil Conservation Department to build another watershed lake that would only be use as a retention pond in times of heavy rain, not a full time lake. I started the project in fall of 2002 through the beginning of 2003. I had to stop the project for 3 years due to a serious medical reason. I resumed work on the project in July of 2006 and planned on completing it in September 2007.

I began with reclaiming my eroded land, by filling up the ditch in the area of the new pond, to bring the land back to a hay field. I then started to build the damn that would serve as the retention pond.

My neighbors to the North, who had previously put in their pond, called the Environmental Protection Division claiming that I was filling in a natural creek. This is incorrect because the only time any water flows in my eroded ditch is when there is a heavy rain. This complaint resulted in a Mr. Steve Marchant from the EPD, coming to my property and said that I could not complete my project because it was in fact state waters and would result in a \$10,000. 00 per day fine minimum. At that point I informed him that I had a proper permit to do this project and he informed me that it did not matter what I had, I could not do it.

He asked me to stop all work. I voluntarily stopped my project because he asked me to. He indicated that he may not have a problem with my project if I had a plan approved by the NRCS in Calhoun Georgia. I informed him that I had signed up with the NRCS in 1997 and they did not inform me that I had to have a plan on file; I just needed to be registered. Mr. Marchant asked me to contact Ms. Michel Simmons of the NRCS in Calhoun and to have her visit my property to see if the NRCS would back me with a plan. If they would, then he would be satisfied. Several days later, Ms. Simmons came to my property with an associate, looked over the sight, discussed my plan, and said that she did not have any problem with what I was doing. She like the fact that the project would protect state waters downstream. She indicated she would get her engineers in the NRCS to draw up a plan for my project that would satisfy the EPD, which is all that Mr. Marchant requested to be done. Several days later Ms. Simmons informed me that Mr. Marchant indicated that he was not going to accept any plan from the NRCS and that he was going to convert the arbitrary waters to state waters and make me dig the ditch back out and levy a fine on me.

After one month I went ahead and finished my project to grow the grass that would protect my pasture. This was the 11<sup>th</sup> of October 2007. I then called Mr. John Loughridge from the Soil Water Conservation Division Region 1. He works as an arbitrator between the EPD and the NRCS. He said he had spoken with Ms. Simmons at the NRCS and she said that she was ready to get back on board and get a plan to protect me from the EPD. Today, October 16<sup>th</sup>, Mr. Loughridge called to inform me that Mr. Marchant told him that the EPD sent me a letter of compliance and a fine.





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

NOV 30 2007

The Honorable Phil Gingrey, MD  
Member, U. S. House of Representatives  
219 Roswell Street  
Marietta, Georgia 30060

Dear Congressman Gingrey:

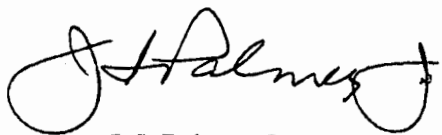
Thank you for your November 6, 2007, letter to Ms. Stephanie Daigle, former Associate Administrator for Congressional and Intergovernmental Affairs, on behalf of Mr. *SKP-6* Cartersville, Georgia. Mr. Johnson expresses his concerns regarding a current enforcement action undertaken by the Georgia Environmental Protection Division (EPD) for alleged violations that have occurred on his property. Your letter was forwarded to me for a response.

The enforcement action referred to by Mr. *SKP-6* is an alleged violation of Georgia state laws; therefore, the U.S. Environmental Protection Agency (EPA) does not have a direct role in this matter. Given EPA's lack of authority, it would be inappropriate for us to intervene in or comment on this action. However, actions which involve placement of fill material into waters of the state may also involve waters of the U.S. and trigger federal involvement. As you are aware, the discharge of dredged or fill material into waters of the U.S. may require a permit from the U.S. Army Corps of Engineers (Corps) under Section 404 of the Clean Water Act (CWA). While some agriculturally related activities are exempt from this permitting requirement, concerns exist that some of Mr. *SKP-6* actions may not have been exempt and could also be potentially subject to federal enforcement activities. While we appreciate Mr. *SKP-6* coordination with the local office of the Natural Resources Conservation Service (NRCS), that agency's staff may only advise landowners as to the agricultural exemption status of any actions in waters of the U.S. A final determination must be made by the Corps and/or EPA.

Mr. *SKP-6* also noted that a pond constructed by his neighbor may have been created without any permits. We are looking into this issue and are coordinating with EPD and the Corps. We recommend Mr. *SKP-6* contact Mr. Ed Johnson, Chief of the U.S. Army Corps of Engineers' office in Morrow, Georgia, at (678) 422-2722 to help ensure that he is in full compliance with Section 404 of the CWA.

We appreciate you bringing this issue to our attention. If you have any questions or need additional information from EPA, please contact me or the Region 4 Office of Congressional and Intergovernmental Relations at (404) 562-8327.

Sincerely,

A handwritten signature in black ink, appearing to read "J. I. Palmer, Jr.", with a large, stylized initial "J" and a trailing flourish.

J. I. Palmer, Jr.  
Regional Administrator

cc: Ed Johnson, Corps of Engineers, Morrow, GA

**Congress of the United States**  
**Washington, DC 20515**

June 13, 2008

The Honorable James B. Gulliford  
Assistant Administrator  
US Environmental Protection Agency  
Office of Prevention, Pesticides, and Toxic Substances  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Assistant Administrator Gulliford,

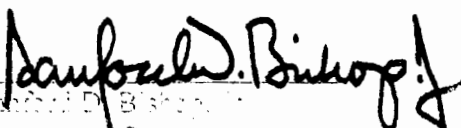
We are keenly aware that the Environmental Protection Agency is still considering the re-registration of the class of herbicides known as the organic arsenicals. On July 26, 2007, we sent you a letter expressing our interest in this matter and highlighting the need for these products for effective weed control by turfgrass and cotton producers. While we appreciate the continued work on this matter, we remain very concerned about the potential impact to agricultural production and turfgrass management if these compounds are removed from the market.

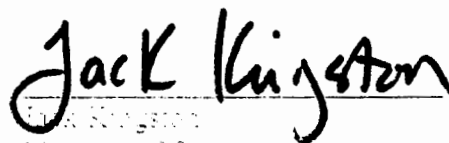
We recognize that you and your staff have taken time to meet with farmers in Georgia and the southeast who utilize these herbicides to examine their weed control challenges first-hand. Monosodium Acid Methanearsonate (MSMA) has proven to be an effective tool for the control of Tropical Spiderwort and herbicide-resistant weeds, such as Palmer Amaranth. In turfgrasses, especially bermudagrass, there are no comparable substitutes for the organic arsenical herbicides on certain weeds. It is our understanding that agriculture industry leaders, researchers and registrants are working with you to resolve science-based questions that have been prompted during your review process. We trust that such input and continued study of the cost/benefit of these compounds will aid in your final decision.

These compounds are still very important for weed management in turfgrass and cotton production for farmers in Georgia. We ask that you expedite the registration process without condition.

Thank you for your attention to this matter.

Sincerely,

  
Sanford D. Bishop  
Member of Congress

  
Jack Kingston  
Member of Congress

David Scott

Thomas Price

Joe Barnes

Phil Perry

Lyn Alton

Frank Johnson

Paul Brown

John Zinder



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 17 2008

The Honorable Phil Gingrey  
U.S. House of Representatives  
Washington, D.C. 20515

OFFICE OF  
PREVENTION, PESTICIDES AND  
TOXIC SUBSTANCES

Dear Congressman Gingrey:

Thank you for your letter of June 13, 2008, regarding the proposed cancellation of MSMA and related organic arsenical herbicides. I appreciate the opportunity to address your concerns.

In August 2006, the Environmental Protection Agency (EPA) announced in a Reregistration Eligibility Decision (RED) document for the organic arsenical herbicides MSMA, DSMA, CAMA, and cacodylic acid that the Agency has determined all products containing these herbicides are not eligible for reregistration. The public comment period on this RED was extended several times to facilitate a full and open public process in the evaluation of the risks and benefits of the organic arsenical herbicides.

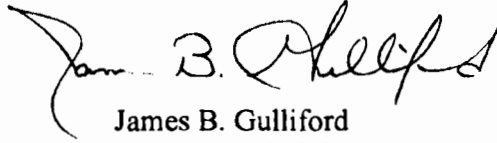
EPA received several hundred comments from a wide range of stakeholders, including technical registrants, end use registrants, state agencies and regulators, public interest groups, end users, and the general public. The Agency has completed the evaluation of all comments and data submitted. This information has been placed in a "response to comments" document in the public docket (docket number: EPA-HQ-OPP-2006-0201, Document ID Number 0466, <http://www.regulations.gov>).

The Agency's primary concern is the potential for applied organic arsenicals to transform in the soil to the more toxic form – inorganic arsenic – which is known to cause cancer in humans. EPA's cancer risk assessment is based on the findings of the Agency's Scientific Advisory Board and reflects the most current scientific thinking on the hazard associated with arsenic. The Agency has used modeling as well as actual field monitoring studies that indicate higher levels of inorganic arsenic in drinking water in areas of high arsenical herbicide use.

EPA recognizes that MSMA and other organic arsenicals have provided important weed control benefits to turf-grass and cotton growers. We are continuing to work with the manufacturers of these herbicides and other stakeholders to determine if any mitigation measures could be employed to ensure that these herbicides do not reach drinking water sources, while maintaining some of the beneficial use of these compounds.

If you have further questions, please contact me directly or your staff may contact Ms. Christina Moody in the Office of Congressional and Intergovernmental Relations at (202) 564-0260.

Sincerely,

A handwritten signature in black ink, appearing to read "James B. Gulliford". The signature is fluid and cursive, with the first name "James" written in a stylized, elongated script.

James B. Gulliford  
Assistant Administrator

**Congress of the United States**  
**Washington, DC 20515**

June 27, 2008

Mr. Stephen L. Johnson  
Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue  
Washington, D.C. 20460

Dear Administrator Johnson:

In light of recent weather disasters across the nation, we urge you to act now to reduce the amount of ethanol that must be blended into the fuel supplies.

As you know, domestic food prices are rising twice as fast as inflation and the rising price of basic commodities has been passed along to consumers. The Renewable Fuel Standard (RFS) is a significant factor in the increased cost of commodities which is causing severe economic harm for low-income Americans and livestock producers. A wide range of experts—including FAPRI, IFPRI, IMF, UNFAO, and the World Bank—have linked rising commodity prices to recent increases in corn ethanol production.

Poor weather, along with export restrictions, energy prices, and global demand are also among significant factors contributing to rising commodity prices. Severe flooding in the Midwest and drought in the South have already produced devastating losses in this year's corn crop and continued adverse weather could further decrease this year's already depleted crop. We are already seeing the impact of decreased domestic corn production on prices in the U.S., currently holding at record highs.

This year, approximately one-third of America's corn crop will be converted to ethanol to meet the RFS. Although supply will likely be drastically decreased from years past, the demand imposed by the RFS will dramatically increase. By acting now to reduce the RFS mandate, the Administration can immediately impact the supply of corn that will be used for food or feed and lessen the severe economic harm facing millions of Americans.

We urge you to act now to reduce the Renewable Fuels Standard.

Sincerely,



Frank O. Lucas John Boozma

John Mansaring K. M. H. L. T. H.

Marsha Blackburn Nathan Deal

Paul C. Brown T. Huettner

Chil Jung Randy Kuhl

Vi Lantz John Hodegg

George Radkovich Joe Flea

Ron Paul Greg Everett

Ron Lewis J. M. H.



Paul Burr

Tom Davis

John Sullivan

Sue Kypick

Bill Shuster

Jim Cole

Shelley Moore Caputo

~~John~~

Joseph Pitts

Wally Henger

James T Walsh

Jim Jacobson

Ralph M. Hall

Paul Gay

John Linder

Virginia Foxx

~~John Smith~~

Mac Perry

Mary Fullin

Barbara Cabin

Thelma Duke

Gene Bilisakis

Pete Sessions

Art Bosh

Steve Dain

Simon P. Gilkey

Ut Zell

David E. Fryer

Joe Wilson

Don Nemes

Lynne Allen



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 23 2008

OFFICE OF  
AIR AND RADIATION

The Honorable Phil Gingrey  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Gingrey:

Thank you for your letter of June 27, 2008, co-signed by 50 of your colleagues, to Stephen L. Johnson, Administrator of the U.S. Environmental Protection Agency (EPA). Your letter requests that EPA reduce the renewable fuel standard (RFS) in response to rising food and commodity prices.

EPA is considering a formal request by Governor Rick Perry of Texas to waive a portion of the RFS. The Agency is conducting a thorough review of the Governor's request as required by the Energy Independence and Security Act of 2007 (EISA). EPA received the waiver request on April 25, 2008, and published a Federal Register notice on May 22 soliciting public comment.

We received over 15,000 comments on our Federal Register notice. A number of these comments raise substantive issues and include significant economic analyses. We believe it is very important to take sufficient time to review and understand these comments so that we can make an informed decision. With the 90-day statutory timeframe ending this week, it is now clear that a final decision will not be completed by this deadline. Rather, additional time is needed to allow staff to adequately respond to the public comments and develop a document that explains the technical, economic, and legal rationale of our decision. We also will be using this time to continue our coordination, as required by EISA, with USDA and DOE. Administrator Johnson is confident that he will be able to make a final determination on the Texas waiver request in early August of this year. Please be assured that we are taking your concerns into consideration in this matter and have placed your letter in the docket for the waiver request.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Patricia Haman, in EPA's Office of Congressional and Intergovernmental Relations, at 202-564-2806.

Sincerely,

A handwritten signature in black ink, which appears to read "Robert J. Meyers", is written over a horizontal line.

Robert J. Meyers  
Principal Deputy Assistant Administrator

JOHN J. RHODES, III  
PRESIDENT

DENNIS HERTEL  
VICE PRESIDENT

CONSTANCE A. "CONNIE" MORELLA  
TREASURER

BARBARA B. KENNELLY  
SECRETARY

JIM SLATTERY  
PAST PRESIDENT

WALTER F. MONDALE  
HONORARY CHAIRMAN



## The United States Association of Former Members of Congress

1401 K STREET, NW • SUITE 503  
WASHINGTON, D.C. 20005

Phone: (202) 222-0972 • Fax: (202) 222-0977  
E-mail: [admin@usafmc.org](mailto:admin@usafmc.org) • Web site: [www.usafmc.org](http://www.usafmc.org)

DAN GLICKMAN  
MARGARET M. HECKLER  
MATTHEW F. McHUGH  
MIKE PARKER  
RICHARD T. SCHULZE  
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PROGRAM DIRECTOR

TRACY FINE  
SENIOR PROGRAM OFFICER

WHITNEY NOVAK  
MEMBER SERVICES MANAGER

ESRA ALEMDAN  
JUNIOR PROGRAM OFFICER

### CONGRESSIONAL STUDY GROUP ON GERMANY

March 24, 2010

Ms. Lisa Jackson  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Ms. Jackson:

As Co-Chairs of the Congressional Study Group on Germany (CSGG), we are very pleased to be hosting a delegation of distinguished members of the German Bundestag on the occasion of the Study Group's 27<sup>th</sup> Annual Congress-Bundestag Seminar. The 2010 Seminar will take place in Washington, DC from May 12<sup>th</sup> to May 13<sup>th</sup>. Because we believe that face-to-face interaction between U.S. policymakers and their foreign counterparts leads to effective international cooperation and candid dialogue on a range of issues concerning global challenges, we kindly request you to be a keynote speaker during a luncheon or dinner discussion during the Seminar. As environmental protection becomes an increasingly vital issue in transatlantic relations, your experience and knowledge in this field would be invaluable to a discussion on *how U.S. and European environmental policy decisions will shape the next 20 years*.

In addition to the Members of the Bundestag, who represent different political parties, the Study Group will also invite representatives from the transatlantic think tank and business communities to the event. The German delegation will be led by MdB Hans-Ulrich Klose (SPD), ranking Member of his parliament's Foreign Affairs Committee as well as Coordinator for German-American cooperation at the German Foreign Ministry.

The CSGG is the flagship international program of the United States Association of Former Members of Congress (FMC) and is one of the largest and most active parliamentary exchange programs between the U.S. Congress and the legislative branch of another country. In addition to

Bob Carr  
Bob Clement  
Louis Frey, Jr.  
Dennis M. Hertel  
James P. Jones  
Stanford E. Parris  
John J. Rhodes, III  
Ronald A. Sarasin

Jack Buschner  
Martin Frost  
Lee H. Hamilton  
James A. Hayes  
Jim Kolbe  
Bob Livingston  
David Skaggs  
Norman Y. Mineta

Beverly B. Byron  
Jim Coyne  
Phil English  
Barbara B. Kennelly  
Ken Kramer  
Larry LaRocca  
Constance A. "Connie" Morella  
Jim Slattery

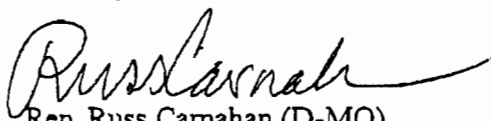
Co-Founders Walter H. Judd (1889-1994) and Brooks Hays (1898-1981)

AN ASSOCIATION CHARTERED BY THE UNITED STATES CONGRESS

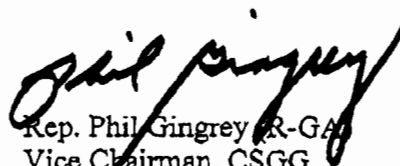
the Members of the Bundestag, who represent different political parties, the Study Group will also invite representatives from the transatlantic think tank and business communities. If your schedule permits you to join or if you have any questions, please have your staff contact Ms. Sudha David-Wilp by telephone at (202) 507-4849 or via email at [sdavid-wilp@usafmc.org](mailto:sdavid-wilp@usafmc.org).

Thank you for your consideration.

Best regards,



Rep. Russ Carnahan (D-MO)  
Chairman, CSGG  
Member of Congress



Rep. Phil Gingrey (R-GA)  
Vice Chairman, CSGG  
Member of Congress

**Congress of the United States**  
**Washington, DC 20515**

December 8, 2010

Lisa Jackson, Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Ray LaHood, Secretary  
U.S. Department of Transportation  
1200 New Jersey Avenue, SE  
Washington, DC 20590

Dear Administrator Jackson and Secretary LaHood:

We are writing regarding the Environmental Protection Agency's and the Department of Transportation's proposed redesign of fuel economy labels, as required by the Energy Independence and Security Act (EISA) of 2007.

As you know, the Energy Independence and Security Act of 2007 (EISA) mandated that the DOT issue a rulemaking implementing this law. On September 23, both EPA and DOT issued a notice of proposed rulemaking.

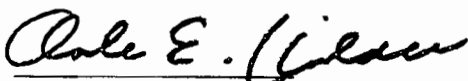
The proposed rule presents two primary label options. Label 1 minimizes miles per gallon (mpg), an objective measure of the fuel economy performance of a vehicle, in favor of a prominently displayed subjective "letter grade". In contrast, Label 2 focuses on the mpg metric and implements the other information Congress required under EISA. Consumers are very familiar with the mpg metric and rely on it when purchasing a new motor vehicle.


Additionally, unlike the mpg metric, the proposed grading system is biased in favor of certain types of vehicles. The "A" and "A+" categories are reserved for a very narrow range of vehicles, i.e., battery electric vehicles and plug-in hybrids. However, a fuel efficient, clean diesel vehicle would be penalized with a low or mediocre grade. Similarly, most fuel efficient SUVs and pickup trucks would rate no higher than a "C+".

We hope you will agree that it is essential for consumers to have clear and concise information about the fuel economy performance of their vehicle. However, Label 1 marginalizes the most important piece of information on the fuel economy sticker, namely the fuel economy of the vehicle. Moreover, Label 1 unfairly promotes certain vehicles over others.

We believe that Label 2 better serves the needs of the consumer by continuing to prominently display the mpg of the vehicle, and is consistent with the statutory intent of EISA. Although the deadline for public comment has passed, we appreciate your agencies allowing us to submit this letter for the public record.

Sincerely,

  
Dale E. Kildee  
Member of Congress

  
Steve LaTourette  
Member of Congress

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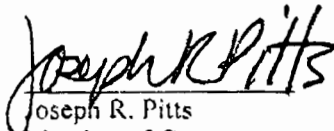
Greg Walden  
Member of Congress



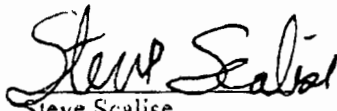
André Carson  
Member of Congress



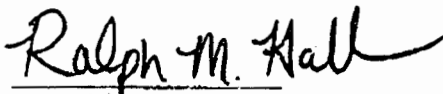
Bennie G. Thompson  
Member of Congress



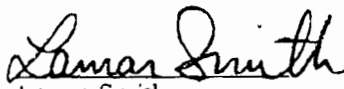
Joseph R. Pitts  
Member of Congress



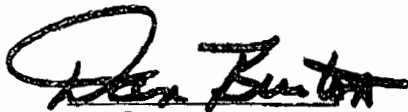
Steve Scalise  
Member of Congress



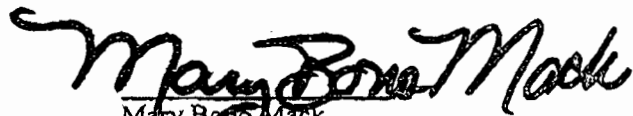
Ralph M. Hall  
Member of Congress



Lamar Smith  
Member of Congress



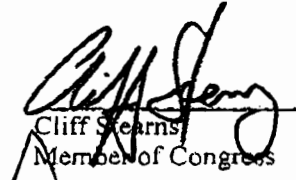
Dan Burton  
Member of Congress



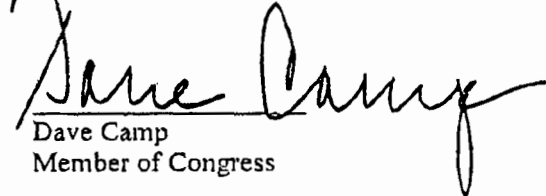
Mary Bono Mack  
Member of Congress



Tim Ryan  
Member of Congress



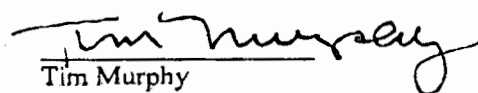
Cliff Stearns  
Member of Congress



Dave Camp  
Member of Congress



Bob Latta  
Member of Congress



Tim Murphy  
Member of Congress



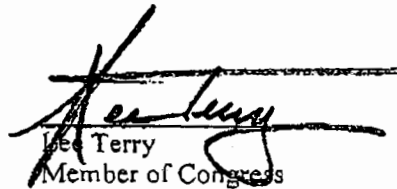
Dan Lungren  
Member of Congress



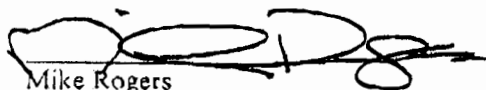
Judy Biggert  
Member of Congress



Geoff Davis  
Member of Congress



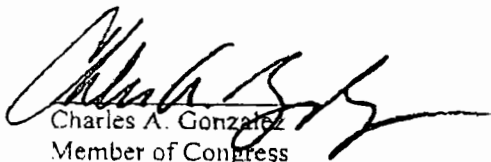
Lee Terry  
Member of Congress



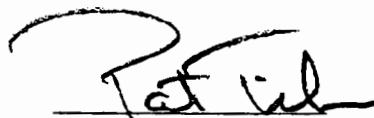
Mike Rogers  
Member of Congress



Candice S. Miller  
Member of Congress



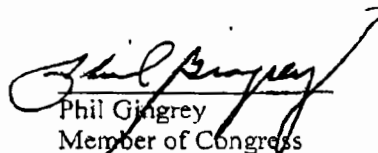
Charles A. Gonzalez  
Member of Congress



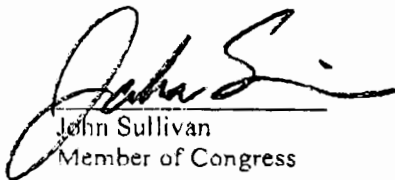
Patrick J. Tiberi  
Member of Congress



Brett Guthrie  
Member of Congress



Phil Gingrey  
Member of Congress



John Sullivan  
Member of Congress



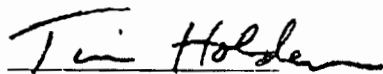
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Member of Congress



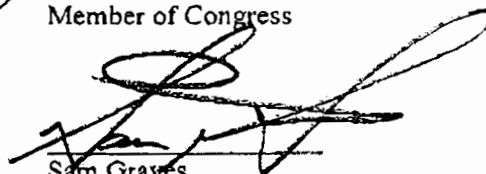
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Member of Congress



Jim Matheson  
Member of Congress



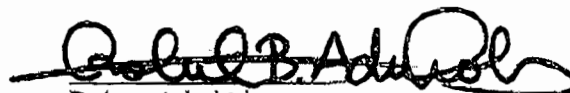
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Sam Graves  
Member of Congress

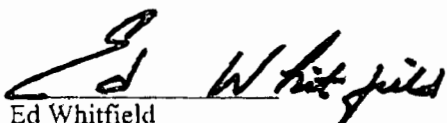


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Member of Congress

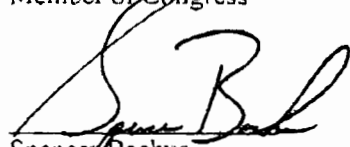


Robert Aderholt  
Member of Congress

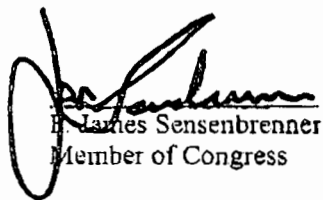




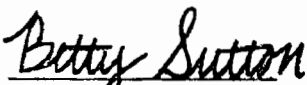
Ed Whitfield  
Member of Congress




Spencer Bachus  
Member of Congress



James Sensenbrenner  
Member of Congress



Betty Sutton  
Member of Congress



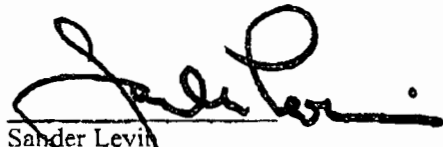
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Member of Congress



Todd Akin  
Member of Congress



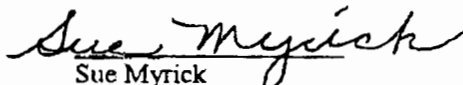
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Member of Congress



Sander Levin  
Member of Congress



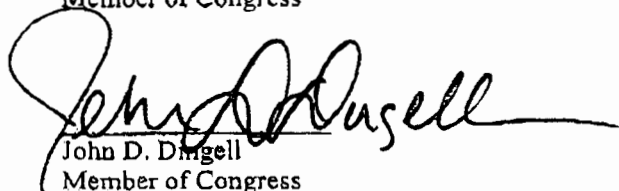
G.K. Butterfield  
Member of Congress



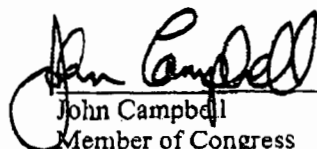
Sue Myrick  
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Gary Peters  
Member of Congress



John D. Dingell  
Member of Congress



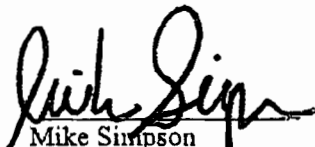
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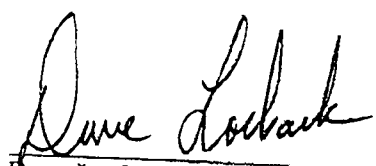
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Member of Congress



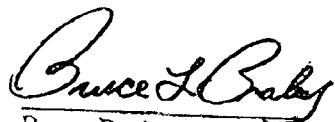
Marsha Blackburn  
Member of Congress



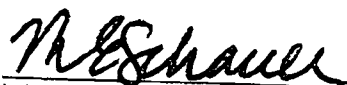
Mike Simpson  
Member of Congress



Dave Loebsack  
Member of Congress



Bruce Braley  
Member of Congress



Mark Schauer  
Member of Congress

## **FAX SHEET**

**CONGRESSMAN DALE E. KILDEE**  
2107 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, D.C. 20515  
(202) 225-3611 PHONE  
(202) 225-6393 FAX

DATE:      December 8, 2010     

TO:      Office of Congressional and Intergovernmental Relations

FROM:                         DEK                         Peter Karafotas  
                              Lindsey Beck                         Evita Mendiola  
                              Callie Coffman                         Paxton Myers  
                              Erin Donar                         David Ruble  
                           X   Josh Dover                         Erin Ward  
                              Other

Number of pages, including this page   6  

Comments: ***Letter to Administrator Jackson from Congressional  
offices regarding proposed redesign of fuel economy labels. Please  
contact me if you have any additional questions.***

If you have problems with this transmission, please call (202) 225-3611.



The Honorable Phil Gingrey  
U.S. House of Representatives  
Washington, DC 20515

JAN 21 2011

Dear Congressman Gingrey:

Thank you for your letter, cosigned by your congressional colleagues, which provides the U.S. Environmental Protection Agency (EPA) and National Highway Traffic Safety Administration (NHTSA) with comments on the proposed Fuel Economy Label rulemaking. We value your interest in this proposal and have submitted your letter to the rulemaking docket.

We appreciate the concerns you raise regarding the approach to displaying fuel economy and environmental information on the redesigned fuel economy labels. Both EPA and NHTSA are committed to ensuring that the redesigned labels, required under the Energy Independence and Security Act of 2007, provide consumers with the necessary information about the fuel economy, consumption, cost, and environmental impact associated with purchasing new vehicles that will allow consumers to make informed vehicle purchasing decisions. Since the proposal includes adding important new elements to the existing labels, as well as creating new labels for advanced technology vehicles, EPA and NHTSA embarked on a comprehensive research program beginning in the fall of 2009. In addition, the Agencies met with numerous stakeholders and experts to solicit a broad spectrum of views and insights as to how the labels might be revised.


The EPA and NHTSA are committed to broad public participation in the rulemaking. Given the importance of, and public interest in, the proposed new fuel economy labels, we have held two public hearings—in Chicago on October 14, 2010, and in Los Angeles on October 21, 2010, respectively. In addition, we received substantial comments from both private citizens and a broad range of stakeholders that reflect a wide variety of viewpoints. All comments we receive will be carefully considered when finalizing this rulemaking.

A similar response has been sent to each cosigner of your letter. If you have further questions, please contact us. Your staff also may call David McIntosh, Associate Administrator for EPA Congressional and Intergovernmental Relations, at 202-564-0539, or Mr. Ronald L. Medford, NHTSA Deputy Administrator, at 202-366-9700.

Sincerely yours,



Ray LaHood  
Secretary  
U.S. Department of Transportation



Lisa P. Jackson  
Administrator  
U.S. Environmental Protection Agency

**Congress of the United States**  
**Washington, DC 20515**

November 20, 2012

Honorable Margaret A. Hamburg, M.D.  
Commissioner  
Food and Drug Administration  
10903 New Hampshire Avenue  
Silver Spring, MD 20993

Honorable Lisa Jackson  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Dr. Hamburg and Administrator Jackson:

We are writing to you as concerned physicians and medical practitioners regarding an issue of significant importance to ensure pregnant women in the United States and around the world receive the best medical advice. As you know, the Food and Drug Administration (FDA) and the Environmental Protection Agency (EPA) issued advice in 2004 to women who may become pregnant, women who are pregnant, nursing mothers and young children that recommended a reduction in already low seafood consumption levels.

Since 2004, new scientific data has found that there is now an Omega 3 deficiency in the United States based on reduced seafood consumption. Physicians, scientists, nutritionists and both the Secretaries of Health and Human Services and Agriculture agree that the 2004 advice is outdated and needs to be revised.

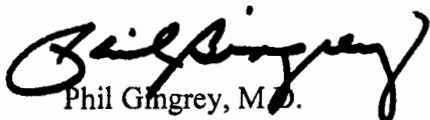
Members of both the House and Senate have written to the Administration nearly a dozen times calling for the completion of the risk benefit assessment and an update to the current seafood consumption advice. In each response, Members and Senators have been provided with deadlines for new advice that have been subsequently missed. Meanwhile, the new Dietary Guidelines for Americans (DGA) were jointly issued in January 2011 by the Departments of Agriculture and Health and Human Services.

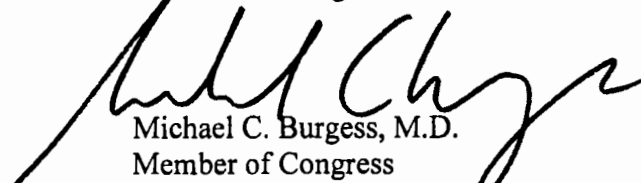
Within the DGA, it specifically contradicts the 2004 advice when it stated, "the benefits of consuming seafood far outweigh the risks, even for pregnant women." It further states, "the nutritional value of seafood is of particular importance during fetal growth and development, as well as in early infancy and childhood." Ultimately, the DGA recommends women quadruple current seafood consumption during pregnancy.

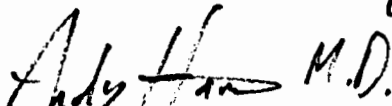
As physicians and medical practitioners, we are concerned that every day the FDA delays in issuing its advice, pregnant women are receiving inaccurate, conflicting information on seafood consumption that can have a negative impact on unborn children. HHS Secretary Kathleen Sebelius has committed to issuing the risk benefits assessment and the new advice, both of which must be completed as soon as possible. We hope that both the FDA and the EPA will follow suit.


We respectfully request that both agencies provide us with an update on the status of the final risk benefits assessment and the draft new advice. This report and advice must be finalized this year. We owe it to pregnant women across the country to ensure consistency in the dietary guidelines and advice that the federal government provides to them.

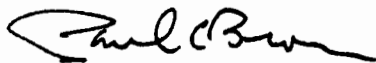
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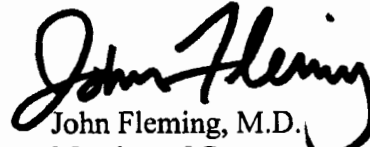
  
Phil Gingrey, M.D.  
Member of Congress

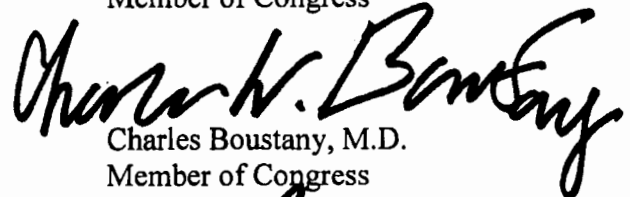
  
Michael C. Burgess, M.D.  
Member of Congress


  
Andy Harris, M.D.  
Member of Congress

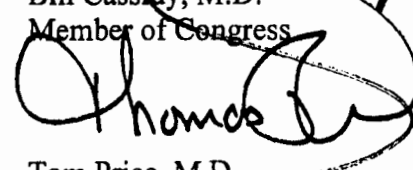
  
Dan Benishek, M.D.  
Member of Congress

  
Paul Broun, M.D.  
Member of Congress

  
John Fleming, M.D.  
Member of Congress

  
Charles Boustany, M.D.  
Member of Congress

  
Bill Cassidy, M.D.  
Member of Congress

  
Tom Price, M.D.  
Member of Congress

CC: Honorable Kathleen Sebelius, Secretary of the Health and Human Services  
Honorable Tom Vilsack, Secretary of the U.S. Department of Agriculture  
Cecilia Muñoz, Director of the White House Domestic Policy Council  
Julie Moreno, White House Domestic Policy Council  
Jocelyn Frye, Office of the First Lady Michelle Obama



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

DEC 31 2012

OFFICE OF WATER

The Honorable Phil Gingrey, M.D.  
House of Representatives  
Washington, D.C. 20515

Dear Congressman Gingrey:

Thank you for your letter of November 20, 2012, to Lisa P. Jackson, Administrator, U.S. Environmental Protection Agency (EPA) requesting an update on the status of the draft revised national fish consumption advisory. In your letter, you also express concerns that the current 2004 advice is contradicted by the new Dietary Guidelines for Americans and you requested an update on the status of the Food and Drug Administration's (FDA) risk benefit assessment. Administrator Jackson asked me to respond to your letter.

I want to assure you that the EPA and the FDA have worked very closely to develop updated national advice designed to provide a balanced message regarding the risks and benefits of fish consumption. In fact, the two agencies believe we have reached agreement on new draft national advice and issuance of the FDA's risk benefit assessment, and hope to proceed with the public review process for the draft advice in the near future. The FDA is in the process of obtaining final concurrence on the draft advice and associated communication materials.

The EPA is fully supportive of the DGA and its recommendations regarding mercury and fish. As stated in the DGA policy document, "Moderate, consistent evidence shows that the health benefits from consuming a variety of seafood in the amounts recommended outweigh the health risks associated with methyl mercury." Both the 2004 advice and the new draft advice are consistent with this statement.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Denis Borum in the EPA's Office of Congressional and Intergovernmental Relations at (202) 564-4836.

Sincerely,

A handwritten signature in black ink, appearing to read "Nancy K. Stoner", is positioned above the typed name.

Nancy K. Stoner  
Acting Assistant Administrator

**Congress of the United States**  
**House of Representatives**

Washington, DC 20515

August 1, 2012

Administrator Lisa P. Jackson  
U.S. Environmental Protection Agency  
Room 300, Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Administrator Jackson:

As serious drought conditions continue moving across nearly two-thirds of the country, we are at a critical juncture where federal policy meets real world realities. Because of these extreme weather conditions, corn prices are spiking and some analysts are predicting that the U.S. may experience a corn shortage this summer. Relief from the Renewable Fuels Standard (RFS) is extremely urgent because another short corn crop would be devastating to the animal agriculture industry, food manufacturers, foodservice providers, as well as to consumers. We urge you to adjust the RFS mandate for 2012 to account for the anticipated severe shortage in corn.

When Congress enacted the expanded RFS in the Energy Independence and Security Act of 2007 (EISA), the structure was complex. Given the 15 year statutory schedule imposed by the law -- including the specification of four different fuel mandates, each with a separate schedule -- Congress also wanted to ensure that certain "safety valves" for the RFS would be available. Thus, EISA retained and expanded Clean Air Act (CAA) section 211(o) (7). Among other provisions, CAA section 211(o)(7) allows the Administrator of the EPA to reduce the required volume of renewable fuel in any year based on severe harm to the economy or environment of a state, a region or the United States, or in the event of inadequate domestic supply of renewable fuel.

The waiver provisions in CAA section 211(o) (7) are an important part of Congress' intended implementation of the RFS. They help ensure that the domestic economy and environment are protected as we ramp up production and use of renewable fuels and move to broader use of advanced biofuels. Clearly, the Congress in 2007 anticipated that unforeseen circumstances would require the Environmental Protection Agency (EPA) to exercise flexibility with the RFS. We believe that the current weather situation in the United States calls for exactly the kind of flexibility that was envisioned.

One of the nation's worst droughts in fifty years has hit the Midwest especially hard at a very sensitive time for the U.S. grain crops. Earlier this month, the United States Department of Agriculture in its monthly World Agriculture Supply & Demand Estimates (WASDE), announced the largest decline in month-to-month potential yield for corn in its history.



Currently, only about 31 percent of the corn crop is in "good" or "excellent" condition, representing record lows. While improved weather over the coming weeks may increase yields, much of the damage has already been done. There is not time to replant or find new corn stocks, making it necessary for the government to manage this severe situation.

As a result of these deteriorating conditions, corn prices have risen dramatically over the past few weeks and are likely to remain at record highs. This means literally billions of dollars in increased costs for livestock and poultry producers, and food manufacturers. These dramatic increases put food processing jobs at risk and could cost many family farmers their livelihoods. It is also worth noting that high corn prices have forced some ethanol producers to idle or shutter their plants, costing jobs. Although consumers may not feel the impacts of these increased costs right away, the inevitable result will be more expensive food for Americans and consumers around the world.

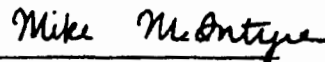
As you are aware, U.S. corn prices have consistently risen, and the corn market has been increasingly volatile, since the expansion of the RFS in 2007. This reflects the reality that approximately 40 percent of the corn crop now goes into ethanol production, a dramatic rise since the first ethanol mandates were put into place in 2005. Ethanol now consumes more corn than animal agriculture, a fact directly attributable to the federal mandate. While the government cannot control the weather, it fortunately has one tool still available that can directly impact corn demand. By adjusting the normally rigid Renewable Fuel Standard mandate down to align with current market conditions, the federal government can help avoid a dangerous economic situation because of the prolonged record high cost of corn.

We therefore urge the EPA to consider a fair and meaningful nationwide adjustment to the Renewable Fuels Standard. Prompt action by the EPA can help to ease short supply concerns, literally save jobs across many U.S. industries, and keep families fed. We strongly urge you to exercise your authority and take the necessary steps to protect American consumers and the economy. Thank you for your immediate consideration of this request.

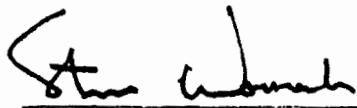
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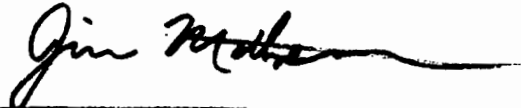
Bob Goodlatte  
Member of Congress



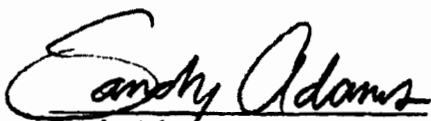
Mike McIntyre  
Member of Congress

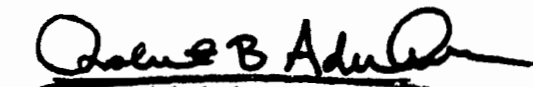


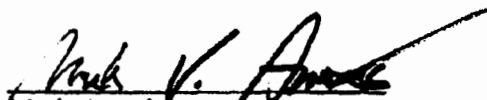
Steve Womack  
Member of Congress



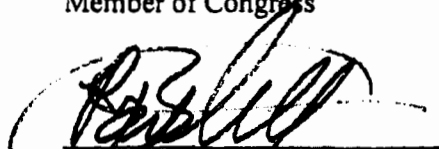
Jim Matheson  
Member of Congress

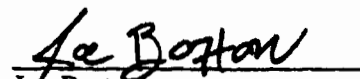
  
Sandy Adams  
Member of Congress

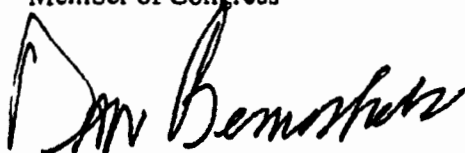
  
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Member of Congress

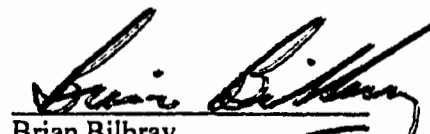
  
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Member of Congress


  
John Barrow  
Member of Congress

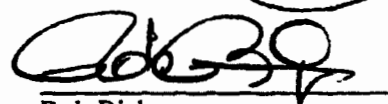
  
Roccoe Bartlett  
Member of Congress

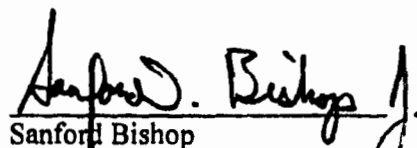
  
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Member of Congress


  
Dan Benishek  
Member of Congress


  
Brian Bilbray  
Member of Congress


  
Gus Bilirakis  
Member of Congress

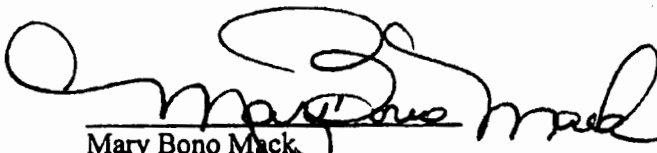
  
Rob Bishop  
Member of Congress

  
Sanford Bishop  
Member of Congress

  
Diane Black  
Member of Congress

  
Marsha Blackburn  
Member of Congress

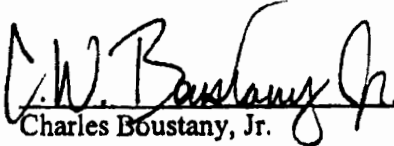
  
Jo Bonner  
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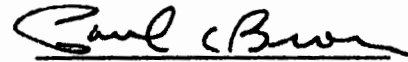
Mary Bono Mack  
Member of Congress



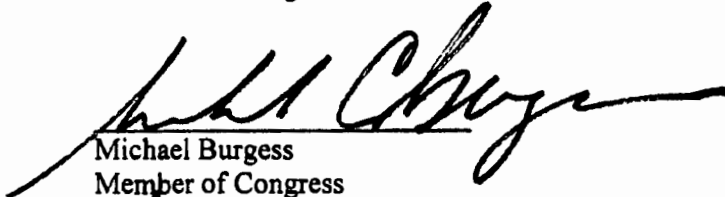
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Member of Congress



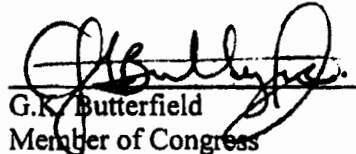
Charles Boustany, Jr.  
Member of Congress



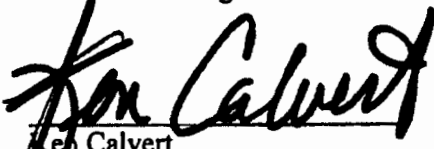
Paul Broun  
Member of Congress



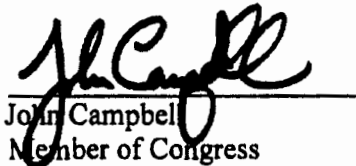
Michael Burgess  
Member of Congress



G.K. Butterfield  
Member of Congress



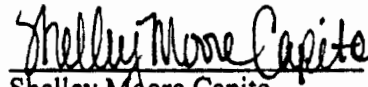
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Member of Congress



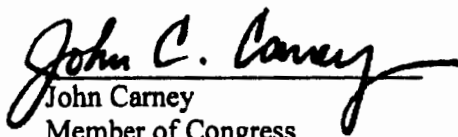
John Campbell  
Member of Congress



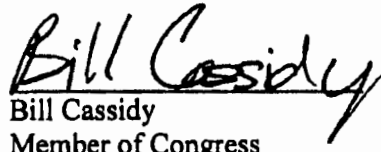
Francisco Canseco  
Member of Congress



Shelley Moore Capito  
Member of Congress



John Carney  
Member of Congress



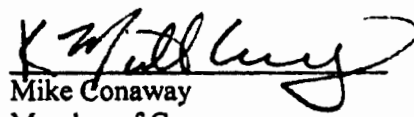
Bill Cassidy  
Member of Congress



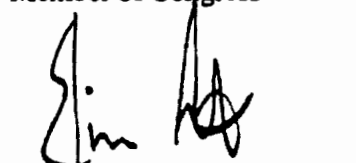
Jason Chaffetz  
Member of Congress



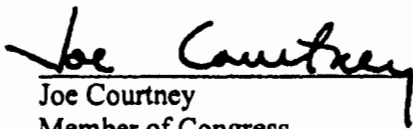
Tom Cole  
Member of Congress




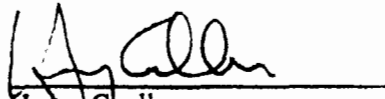
Mike Conaway  
Member of Congress

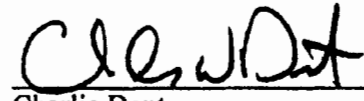


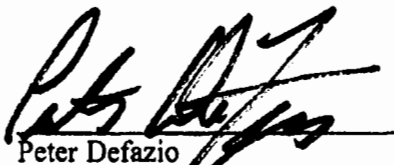
Jim Costa  
Member of Congress


  
Joe Courtney  
Member of Congress

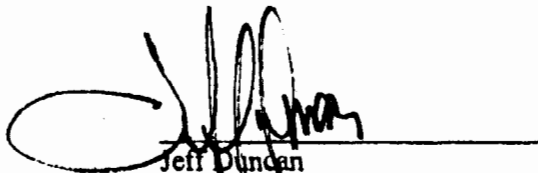
  
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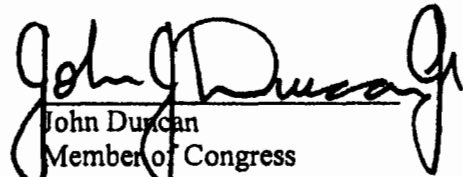
  
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Member of Congress


  
Charlie Dent  
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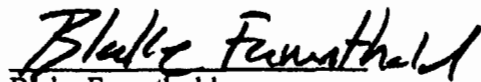
  
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Mario Diaz-Balart  
Member of Congress


  
Jeff Duncan  
Member of Congress

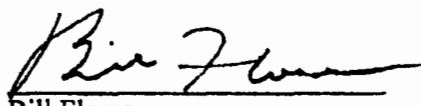
  
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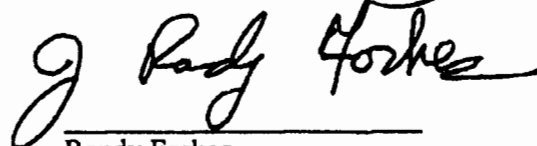
  
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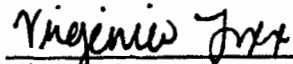
  
Blake Farenthold  
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Jeff Flake  
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John Fleming  
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Bill Flores  
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Randy Forbes  
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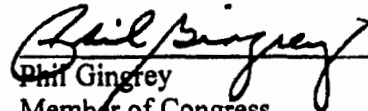
  
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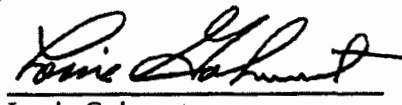
  
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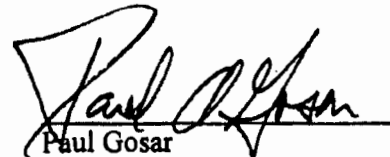
  
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John Garamendi  
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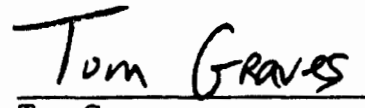
  
Chris Gibson  
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Phil Gingrey  
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Louie Gohmert  
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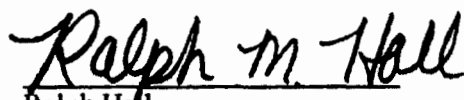
  
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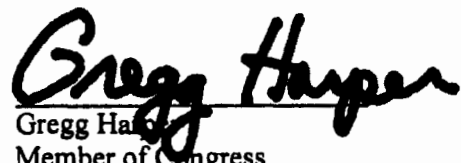
  
Kay Granger  
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Tom Graves  
Member of Congress

  
Tim Griffin  
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H. Morgan Griffith  
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Ralph Hall  
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Gregg Harper  
Member of Congress



Andy Harris  
Member of Congress



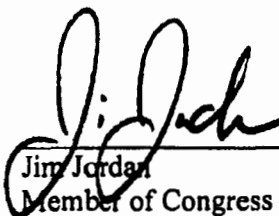
Tim Holden  
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Darrell Issa  
Member of Congress



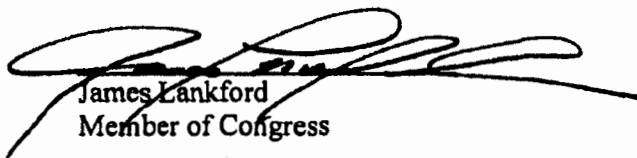
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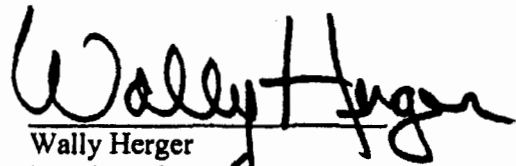
Jim Jordan  
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Larry Kissell  
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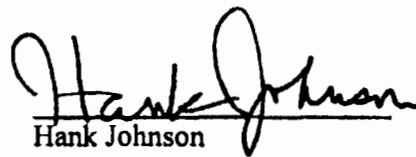
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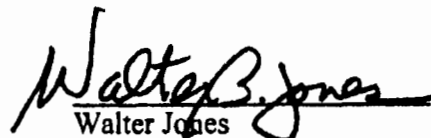
Wally Herger  
Member of Congress



Rob Hurt  
Member of Congress



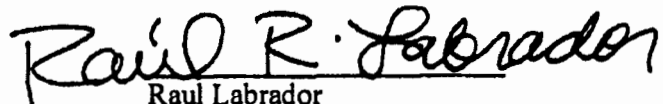
Hank Johnson  
Member of Congress



Walter Jones  
Member of Congress



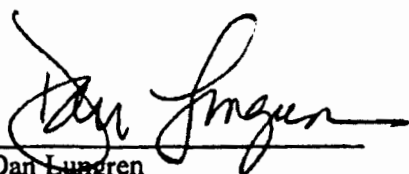
Jack Kingston  
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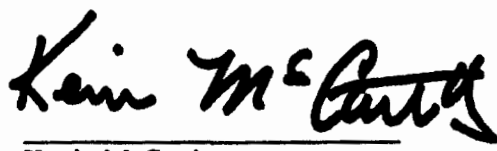
Raul Labrador  
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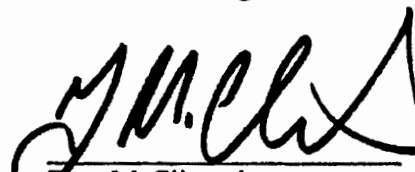



Billy Long  
Member of Congress

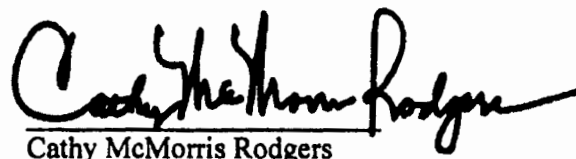
  
Dan Lungren  
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Tom Marino  
Member of Congress

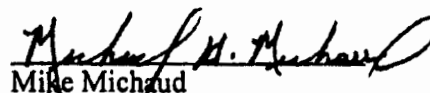
  
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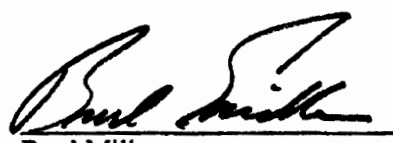
  
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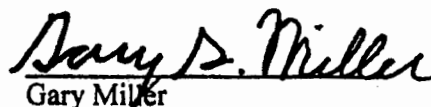
  
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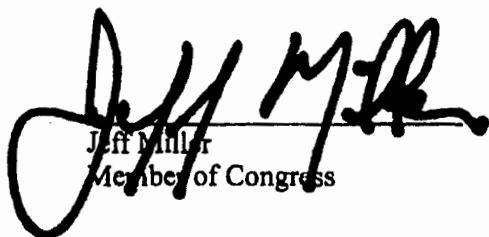
  
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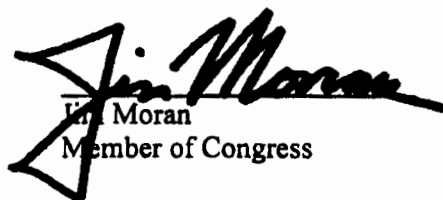
  
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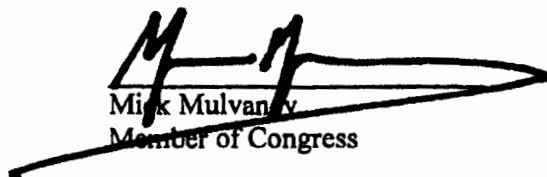
  
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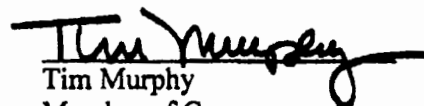
  
Brad Miller  
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Gary Miller  
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Jeff Miller  
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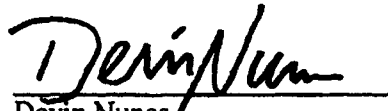
  
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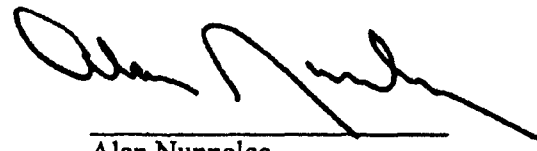
  
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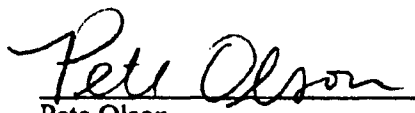
  
Tim Murphy  
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Sue Myrick  
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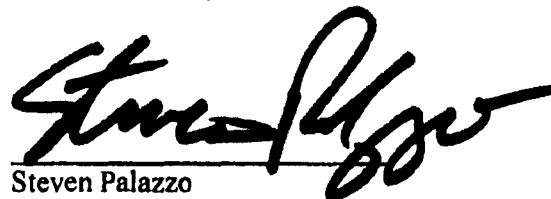
  
Randy Neugebauer  
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Devin Nunes  
Member of Congress

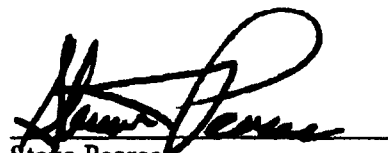
  
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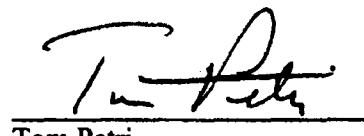
  
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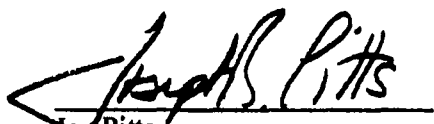
  
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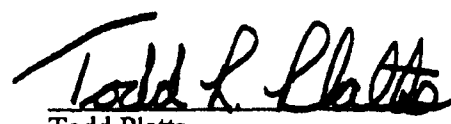
  
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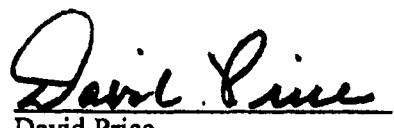
  
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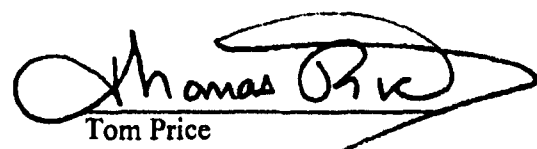
  
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Joe Pitts  
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Todd Platts  
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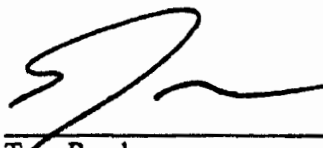
  
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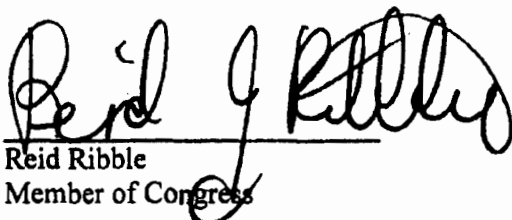




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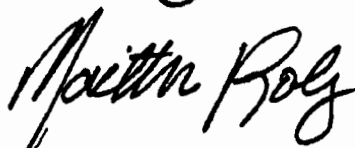
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Reid Ribble  
Member of Congress



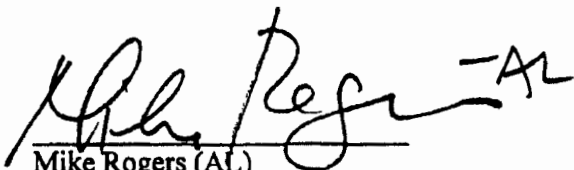
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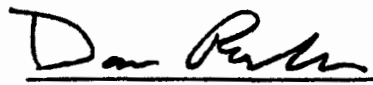
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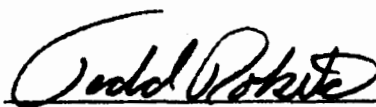
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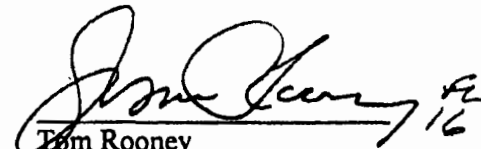
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Member of Congress



Dana Rohrabacher  
Member of Congress



Todd Rokita  
Member of Congress



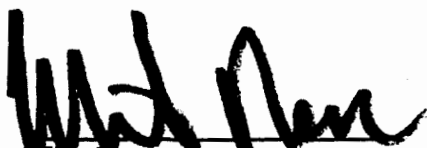
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Peter Roskam  
Member of Congress



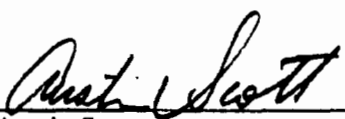
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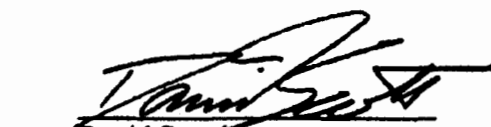


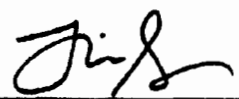
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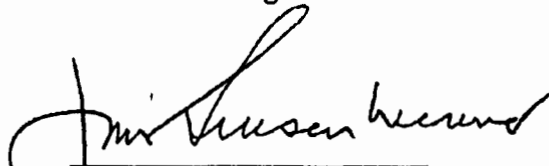


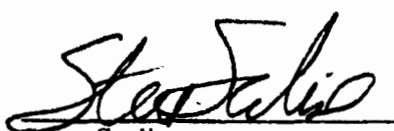
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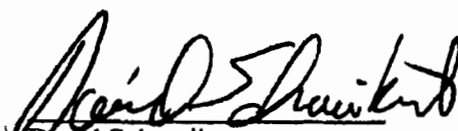
  
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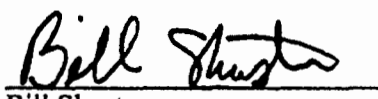
  
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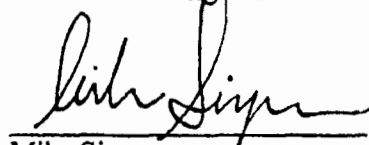
  
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James Sensenbrenner  
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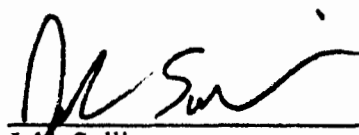
  
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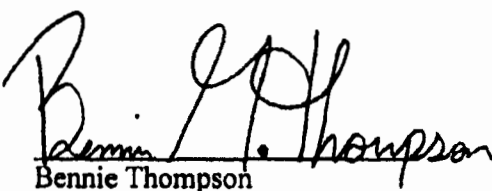
  
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Bill Shuster  
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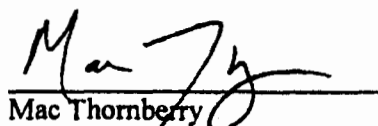
  
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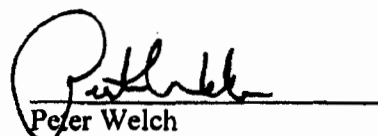
  
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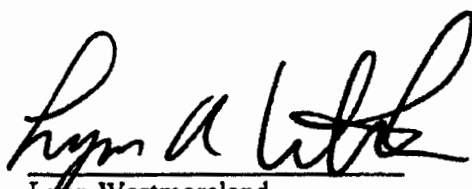
  
John Sullivan  
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Bennie Thompson  
Member of Congress

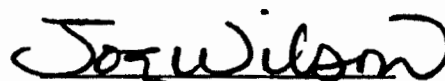
  
Glenn Thompson  
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Mac Thornberry  
Member of Congress

  
Peter Welch  
Member of Congress



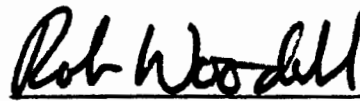
Lynn Westmoreland  
Member of Congress



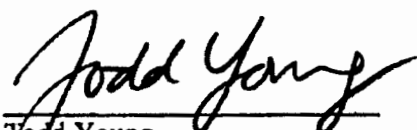
Joe Wilson  
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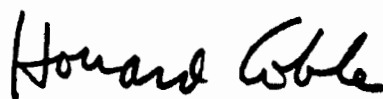
Robert Wieman  
Member of Congress




Rob Woodall  
Member of Congress



Todd Young  
Member of Congress



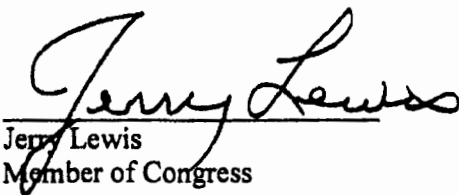
Howard Coble  
Member of Congress



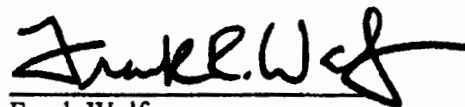
Chellie Pingree  
Member of Congress



Duncan Hunter  
Member of Congress



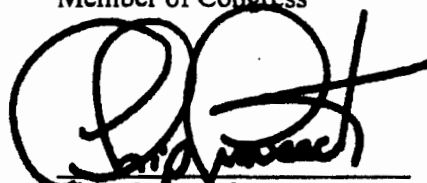
Jerry Lewis  
Member of Congress



Frank Wolf  
Member of Congress




David McKinley  
Member of Congress



Chip Cravaack  
Member of Congress

X McHENRY (N-10)

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Loretta Sanchez

John R. Carter

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Marcia Z. Judge

Betty Scott

Mo Brooks

Willie Mae

Frank A. Lombardo

Joe Brown

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 31 2013

OFFICE OF  
AIR AND RADIATION

The Honorable Phil Gingrey  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Gingrey:

Thank you for your letter dated August 1, 2012, co-signed by 152 of your colleagues to U.S. Environmental Protection Agency Administrator Lisa P. Jackson, regarding a waiver of volume requirements under the Renewable Fuels Standard (RFS) program. The Administrator asked me to respond on her behalf.

Governors from several states and a number of organizations cited the drought conditions affecting much of the country in their request for a waiver of the national volume requirements for the RFS pursuant to the Clean Air Act. After extensive analysis, review of thousands of comments, and consultation with the Department of Agriculture (USDA) and the Department of Energy (DOE), the EPA denied the requests for a waiver in a decision published in the *Federal Register* on November 27, 2012.

The EPA recognizes that last year's drought has created significant hardships in many sectors of the economy, particularly for livestock producers. However, the agency's extensive analysis makes clear that Congressional requirements for a waiver have not been met and that waiving the RFS would have little, if any, impact on ethanol demand or energy prices over the time period analyzed.

The *Federal Register* notice contains a detailed description of the analysis the EPA conducted in conjunction with DOE and USDA, along with a discussion of relevant comments we received through our public comment process.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Patricia Haman in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2806.

Sincerely,

A handwritten signature in black ink, which appears to read "Gina McCarthy", is positioned above the printed name.

Gina McCarthy  
Assistant Administrator

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 CHAIRMAN EMERITUS  
 EDWARD J. MARKEY, MASSACHUSETTS  
 RICK BOUCHER, VIRGINIA  
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 MIKE ROSS, ARKANSAS  
 ANTHONY D. WEINER, NEW YORK  
 JIM MATHESON, UTAH  
 G. K. BUTTERFIELD, NORTH CAROLINA  
 CHARLIE MELANCON, LOUISIANA  
 JOHN BARROW, GEORGIA  
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 DONNA CHRISTENSEN, VIRGIN ISLANDS  
 KATHY CASTOR, FLORIDA  
 JOHN SARBANES, MARYLAND  
 CHRISTOPHER MURPHY, CONNECTICUT  
 ZACHARY T. SPACE, OHIO  
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ONE HUNDRED ELEVENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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WASHINGTON, DC 20515-8115

MAJORITY (202) 225-2287  
 FACSIMILE (202) 225-2525  
 MINORITY (202) 225-3641

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July 16, 2009

ROY BLUNT, MISSOURI  
 DEPUTY RANKING MEMBER  
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 SUE WILKINS MYRICK, NORTH CAROLINA  
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 MARSHA BLACKBURN, TENNESSEE  
 PHIL GINGREY, GEORGIA  
 STEVE SCAUSE, LOUISIANA

The Honorable Lisa Jackson  
 Administrator  
 U.S. Environmental Protection Agency  
 1200 Pennsylvania Avenue, N.W.  
 Washington, DC 20460

Dear Administrator Jackson:

We write to follow up on Ranking Member Barton's June 24 letter to you (attached) to request additional information and documents relating to the facts and circumstances surrounding the preparation of the Environmental Protection Agency (EPA) proposed endangerment finding.

Questions about the process and treatment of critical opinion and debate within EPA have only increased since we wrote three weeks ago. Since that time, you or EPA spokesmen have issued statements at once minimizing the critical comments by a senior career employee, Dr. Alan Carlin, on the quality of the agency's basis for the proposed endangerment finding, and ignoring the substantive questions about the integrity of the EPA process raised by the alleged suppression of Dr. Carlin's report.

An EPA spokesperson said in response to press inquiries about emails indicating document suppression: "The individual in question [Dr. Carlin] is not a scientist and was not part of the working group dealing with this issue." This statement stands in conflict with the plain fact that Dr. Carlin is listed as an author and contributor to the EPA's Technical Support Document (TSD) prepared in support of the proposed endangerment finding, raising questions about the actual authorship and review process of this key document. In light of the apparent expedited pace with which this TSD was internally reviewed during your tenure, we also question whether listed authors, if they did contribute, had sufficient opportunity to evaluate and document whether the TSD represented a full, up-to-date examination of scientific evidence and uncertainties surrounding climate change.

Letter to The Honorable Lisa Jackson

Page 2

In another instance, you testified during a July 7, 2009 Senate Environment and Public Works Committee hearing that you personally directed staff to inform Dr. Carlin that he could share his views widely, but you made no comments relating to the email evidence that Dr. Carlin was instructed not to discuss endangerment outside his immediate office, that he was to spend no more agency time on climate change or endangerment issues, and that his supervisor feared negative consequences for his office. These comments, therefore, left unaddressed our serious concerns about potential retaliation for dissenting views and the atmosphere for open debate, as well as the integrity of "scientific decision-making" at the agency for the proposed endangerment finding.

Your July 10 letter response and subsequent telephone conversation with Ranking Member Barton about that response did not mitigate our concerns about agency process and atmosphere. At this point, we cannot accept as plausible your contention that neither you nor your staff nor direct reports supplied or authorized timelines or other directives for collecting internal comments and for preparing the proposed endangerment finding, which was apparently sought by the Administration.

Furthermore, your letter was not fully responsive to the information and documents requested in our initial letter. Given the incomplete responses from EPA on this matter to date, we seek additional clarification to ensure Congress has the full and complete facts surrounding this matter. Accordingly, we write to seek additional information and documents pursuant to the inquiry sent on June 24, 2009. Please respond within two weeks of the date of this letter to the following:

1. Was Dr. Alan Carlin's work commenting on the Technical Support Document (TSD) dated March 2009 prepared as part of his official EPA duties?
2. Was the set of comments prepared during March 2009 by Dr. Carlin concerning the March 2009 draft of the TSD forwarded to EPA staff outside the National Center of Environmental Economics (NCEE)?
  - a. If so, please identify by name and office all EPA staff who received the document and explain how EPA staff outside NCEE came into possession of a document his supervisor said he would not forward to the program office responsible for preparing the proposed endangerment finding?
  - b. Please provide all documents, including, but not limited to, emails, calendar records, and meeting notes, relating to (1) Dr. Carlin's written comments on the draft(s) of the TSD, (2) his expressed views about climate change, and (3) his analysis or comments about the EPA process for developing an endangerment proposal.
3. Why was Dr. Carlin directed not to work any longer on climate change on March 17, 2009? (See email, attached). Do you support this directive? If not, when was Dr. Carlin allowed to work on climate change again?

Letter to The Honorable Lisa Jackson

Page 3

4. Concerning the March 12, 2009, email from Dr. Al McGartland to Dr. Carlin and Dr. John Davidson: (1) explain the "tight schedule and the turn of events" and (2) explain why these two individuals were not to have "any direct communication with anyone outside of NCEE on endangerment," including "no meetings, emails, written statements, phone calls etc." (see attachment).
  - a. Were similar directives applied to others identified as authors and contributors to the TSD? If so, which person(s) originated these directives and when and how were they issued?
  - b. Have you, your staff, or EPA management restricted communication by any other career staff, particularly senior career professional staff, on the topic of climate change or any other science policy matter? If no, did this directive reflect your policies? Are you in agreement with this directive?
  - c. Please provide all documents, including, but not limited to, emails, calendar records, and meeting notes, relating to the decision to direct Dr. Carlin or Dr. Davidson not to communicate with anyone outside of NCEE on endangerment, including any directives or memoranda relating to your guidance on staff communication and/or on ensuring the scientific integrity and transparency at the EPA.
  - d. Have you had any concerns about unauthorized disclosures of information? Did those concerns ever involve NCEE?
5. In your July 10, 2009, telephone conversation with Ranking Member Barton, you stated that Al McGartland was "counseled" about his actions or emails regarding Dr. Carlin. Please explain how and when he was counseled, who counseled him, what specifically he was counseled about, and who ultimately directed that he be counseled. What was the basis for the counseling? Did EPA conduct an internal investigation of Dr. McGartland's conduct? If so, what was the allegation, and what did EPA find?
6. Please identify and provide documentation for the specific events you referenced in your July 7 Senate testimony that formed the basis for your statements regarding Dr. Carlin's attendance at or participation in conferences, and identify which specific events occurred during prior administrations and which specific events, if any, occurred during the Obama Administration.
  - a. Please provide records of travel requests since January 1, 2004 sought by and granted or not granted to Dr. Carlin for attendance at conferences or speaking engagements on the topic of climate change.
7. Please provide the date(s) and list of attendees for each of the EPA brown bag lunches related to climate change science, policy, or economics, referred to in your July 7 Senate testimony, in which Dr. Carlin participated.



Letter to The Honorable Lisa Jackson

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8. According to a June 29, 2009, press interview with Dr. Carlin by FOXnews.com, Dr. Carlin says his supervisor, Dr. Al McGartland, was pressured to take Dr. Carlin off of climate research when he attempted to submit his TSD comments. Please identify the person(s) who instructed Dr. McGartland to remove Dr. Carlin from climate research, and the basis for their instruction. If EPA does not have this information, please explain why and how Dr. McGartland could be counseled without all pertinent facts.
9. Please describe the purpose, role and functions of the Office of Policy, Economics, and Innovation (OPEI), including the NCEE, within your headquarters operation.
10. Please describe any ongoing efforts to evaluate the role of OPEI, the NCEE, or its other component offices and what your plans are for this office or any of its components, including plans for staffing increases (or decreases), for changes to staff expertise, for changes to its function or role within the Agency Action Development Plan process or rulemaking process or other advisory or support function.
  - a. Please provide any evaluations of OPEI or its components you or your staff have requested to be conducted.
11. Please describe the EPA resources that have been and are planned to be devoted to the OPEI, including detailed budget information, broken out by center and function, the number of EPA employee positions (FTEs) assigned to work in these offices and their roles, the availability of contract funding support, performance goals, and measures for these specific office functions. Please provide this information for each of the years FY2008, FY2009 and FY2010.
12. Please describe the development of the TSD, including its initial development during the Bush Administration, and how the draft that circulated for review in March 2009 differed from the draft prepared in the Bush Administration? How was it updated?
13. Please identify the office and branch and individual(s) in charge of developing the draft TSD initially and the TSD draft that circulated in March of this year. Please also identify who in your office was responsible for advising you on and monitoring the draft TSD and its development.
14. Please explain why the EPA identifies Dr. Carlin as an EPA author and contributor to the April 17, 2009, TSD. What specifically was his contribution, when did he make that contribution, and what was the interaction between Dr. Carlin and EPA staff preparing the April TSD about his contribution, if any?
15. What was the schedule for EPA's internal review of the TSD prior to submitting the proposed endangerment finding to the Office of Management and Budget for review?
  - a. Who set the deadline for submission to OMB for review?

Letter to The Honorable Lisa Jackson

Page 5

- b. Did you or your staff attend or participate in any internal workgroup meetings or conference calls relating to the development of the TSD? If so, please identify who attended or participated, when, and why.
  - c. Please provide all documents relating to the schedule for preparation of the TSD, including but not limited documents reflecting the schedules and timetables for the drafting of the TSD and obtaining comments from EPA agency staff, calendars and attendance records for TSD workgroup meetings and conference calls, as well as all internal guidance and directives for preparing the TSD.
  - d. Why were offices, including the OPEI, outside of the Office of Air and Radiation given only about one week to comment on the TSD?
  - e. Please list the last 10 proposed rulemakings for which OPEI or its component offices were asked to comment, and identify how much time was provided to OPEI and NCEE for comment on each of these rulemakings.
16. Please explain the specific role and contributions of Stratus Consulting, the reported contractor that assisted EPA staff with preparation of the TSD.
- a. Please provide all documents related to the work performed by contractor(s) that assisted EPA staff in the preparation for the TSD issued in April 2009, including scoping documents, contracts, and drafts and comments, and any editorial contribution made by the contractor(s).
  - b. Please provide all documents related to the work to be performed by contractor(s) that are and/or will be assisting EPA staff responding to comments on the proposed endangerment finding and/or TSD, including scoping documents, and contracts.
17. Please explain the specific contributions of other EPA staff listed as "authors and contributors" to the TSD and explain how their contributions and evaluations were documented.
18. Please explain (1) the process for choosing, (2) the specific role, and (3) contributions and date of contributions of the Federal expert reviewers listed in the April 17, 2009 TSD.
- a. Please provide all comments and contributions by these reviewers, and related responses from EPA staff authors.
19. During the July 10 telephone call with Ranking Member Barton, you participated in the call via a speaker phone. If others were in your office during this call, please list their names and affiliations and provide any notes taken of the phone conversation and when you muted the phone.


Letter to The Honorable Lisa Jackson

Page 6

20. If the EPA withholds any documents or information in response to this letter, please provide a Vaughn Index or log of the withheld items. The index should list the applicable question number, a description of the withheld item (including date of the item), the nature of the privilege or legal basis for the withholding, and a legal citation for the withholding claim.

Please provide the written responses and documents requested by no later than two weeks from the date of this letter. Should you have any questions, please contact Mr. Peter Spencer of the Minority Committee staff at (202) 225-3641.

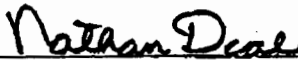
Sincerely,



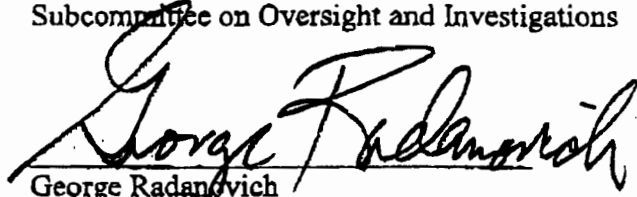
Joe Barton  
Ranking Member



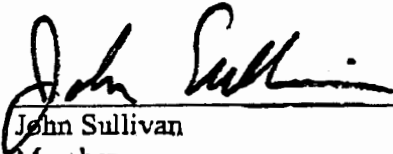
Greg Walden  
Ranking Member  
Subcommittee on Oversight and Investigations



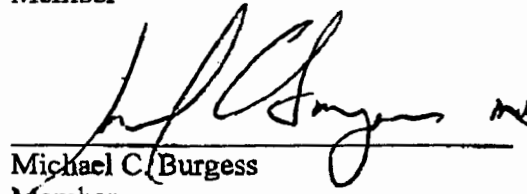
Nathan Deal  
Member



George Radanovich  
Member



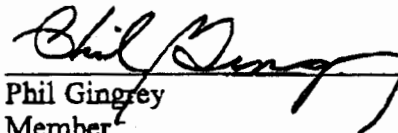
John Sullivan  
Member



Michael C. Burgess  
Member



Marsha Blackburn  
Member



Phil Gingrey  
Member

cc: The Honorable Henry A. Waxman  
Chairman

The Honorable Bart Stupak  
Chairman  
Subcommittee on Oversight and Investigations

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ONE HUNDRED ELEVENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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June 24, 2009

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 PHIL GINGREY, GEORGIA  
 STEVE SCALISE, LOUISIANA

The Honorable Lisa Jackson  
 Administrator  
 U.S. Environmental Protection Agency  
 1200 Pennsylvania Avenue, N.W.  
 Washington, DC 20460

Dear Administrator Jackson:

I write with reference to certain EPA emails which raise serious questions about the integrity, transparency and completeness of the Environmental Protection Agency's (EPA) rulemaking process for the agency's proposed finding that carbon dioxide and other greenhouse gases endanger public health and welfare.

I recently learned of agency emails that suggest that substantive analysis that was critical of the proposed endangerment finding, and that had been prepared by the agency's own staff, was barred from agency consideration by supervising EPA officials, based on concerns of negative consequences for the office from which the analysis had been generated. Further, the emails suggest the staff analysis was suppressed because the Administrator and the Administration had already decided to go forward with the endangerment finding, and that the office's budget would be further reduced if analysis or comments critical of the proposed finding were forwarded (see emails, attached).

On March 16, 2009, an email from what is reported to be a senior career economist in EPA's National Center for Environmental Economics (NCEE) requested to have his comments on the proposed finding forwarded within an apparent deadline to the agency's Office of Air and Radiation which apparently was managing development of the proposed finding. In pertinent part, the email notes:

*"I believe my comments are valid, significant, and contain references to significant new research since the cut-off for IPCC and CCSP [climate science assessment] inputs. They are significant because they present information*

*critical to the justification (or lack thereof) for the proposed endangerment finding. They are valid because they explain much of the observational data that have been collected which cannot be explained by the IPCC models."*

A subsequent March 17, 2009, email from the Director of the NCEE refuses to submit the document for further agency consideration, based on concerns that you and the Administration had already decided to move forward and that forwarding comments critical of the finding would have negative impacts for the office of NCEE. In pertinent part the email reads:

*"The time for such discussion of fundamental issues has passed for this round. The administrator and the administration has [sic] decided to move forward on endangerment, and your comments do not help the legal or policy case for this decision.... I can only see one impact of your comments given where we are in the process, and that would be a very negative impact on our office."*

Following this exchange, the employee was directed to spend no more agency time on the EPA's endangerment finding. In an email of that same date, the Director of NCEE also noted that "our budget was cut by 66%."

I understand NCEE to be an office located in EPA's Office of Policy, Economics and Innovation (OPEI), and that OPEI is the primary policy arm of EPA and has responsibility for managing the development of regulations. The agency's website (<http://www.epa.gov/opei/>) also indicates that NCEE "provides EPA with the expertise to take economic issues, such as benefits and costs, into account" and that it is a resource for information regarding "benefit-cost research techniques," "economic impact models and measures," and "economic incentive mechanisms."

These emails, to the extent they accurately reflect decisions and events in the run-up to your April 2009 proposed endangerment finding, raise serious questions not only about the completeness and reliability of the information you relied upon in making the proposed endangerment finding, but also whether you truly sought objective and complete information in exercising your judgment. Suppression of material information from EPA's own staff and concerns about budget cuts for offices that submit comments critical of the proposed endangerment finding also raise serious questions concerning the transparency and integrity of EPA's analyses and the atmosphere of open and free intellectual discourse at the Agency.

The issue of climate change policy as well as EPA's regulation of greenhouse gases has been at the forefront of Congressional deliberation in recent months. It is imperative that we can be assured EPA operates with full information when making its regulatory science decisions, that information or analysis is not suppressed, that critical offices within EPA that are involved in policy and cost analyses do not receive retaliatory budget cuts if they offer views contrary to those of the Administration, and that the process for these decisions, which Congress relies upon, is not driven by a political agenda or an atmosphere that chills open and honest agency deliberation.

Page 3

Accordingly, I write to seek information and documents relating to the aforementioned emails. Given the serious implications and concerns raised by these emails, I believe it is incumbent upon you to provide an immediate explanation regarding agency procedures and directives you have implemented for collecting information relating to the proposed endangerment finding. Please respond within two weeks of the date of this letter to the following:

1. Did you issue any directive or instructions to any agency staff that research or analyses relating to the endangerment finding by agency staff cease?
2. Have you or the EPA received any instructions from the Administration, including the Executive Office of the President, to cease any ongoing agency inquiry and analyses relating to the proposed endangerment finding?
3. Have you issued any direction to the NCEE office not to conduct any further analyses relating to the proposed endangerment finding?
4. Has EPA been seeking to reduce the budget of the NCEE office within EPA?
5. If yes, given the importance of economic analysis to rulemaking, including the importance of cost-benefit analyses, why has the NCEE budget been reduced?
6. Please provide all staff analyses submitted by the NCEE to the OAR relating to the proposed endangerment finding.
7. Please provide the documents, including any draft analysis, prepared by Dr. Alan Carlin, as referenced in the aforementioned emails.
8. Please provide all directives and information you supplied to agency employees, or the relevant office or department directors, concerning your process for collecting agency staff comments on the proposed endangerment finding.

Please provide the written responses and documents requested by no later than two weeks from the date of this letter. I would respectfully request, if the Agency withholds any documents or information in response to this letter, that a Vaughan Index or log of the withheld items be attached to the response. The index should list the applicable question number, a description of the withheld item (including date of the item), the nature of the privilege or legal basis for the withholding, and a legal citation for the withholding claim.

Page 4

Should you have any questions, please contact Mr. Peter Spencer of the Minority Committee staff at (202) 225-3641.

Sincerely,

A handwritten signature in black ink that reads "Joe Barton". The signature is written in a cursive, flowing style.

Joe Barton  
Ranking Member

cc: The Honorable Henry A. Waxman  
Chairman



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 30 2009

OFFICE OF CONGRESSIONAL AND  
INTERGOVERNMENTAL RELATIONS

The Honorable Phil Gingrey  
Committee on Energy and Commerce  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Gingrey:

Thank you for your July 16, 2009 letter, co-signed by seven of your colleagues, concerning the *Proposed Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(1) of the Clean Air Act*, which EPA issued in April 2009. In this letter, you requested certain documents and answers to a number of questions.

EPA will need additional time to respond to your requests. Your requests are a high priority, and we will respond further as soon as possible.

Again, thank you for your letter. If you have any questions, please contact me or your staff may call Cheryl Mackay of my staff at (202) 564-2023.

Sincerely,

A handwritten signature in black ink, appearing to read "Arvin R. Ganesan", is written over a light blue horizontal line.

Arvin R. Ganesan  
Deputy Associate Administrator

cc: Honorable Henry A. Waxman  
Chairman

Honorable Bart Stupak  
Chairman  
Subcommittee on Oversight and Investigations



AL-05-001-5619

PHIL GINGREY  
11TH DISTRICT, GEORGIA

RULES COMMITTEE  
POLICY COMMITTEE

119 CANNON HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-2931 Phone  
(202) 225-2944 Fax



**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

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CARROLLTON, GA 30117  
(770) 838-8130

LAGRANGE, GA  
(706) 812-1778

COLUMBUS, GA  
(706) 320-2040

October 11, 2005

The Honorable Stephen L. Johnson  
Administrator  
United States Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

Dear Administrator Johnson:

For the last 35 years, Mr. *Exple* has served the residents of Cobb County and the Cobb County-Marietta Water Authority. During his service to the Water Authority, the number of residents served has grown from 197,000 to almost 800,000.

During his 35 years of service, *Exple* has served on water boards at the local, state and national level, for the last 30 years Roy has been a member of the American Water Works Association, currently he serves on the association's Board of Directors. On the state level, *Exple* was the driving force behind the State of Georgia requiring water system operators to be certified. *Exple* expertise is not limited to water system management; he is an expert on growth planning, drought management and water sharing negotiations.

I cannot think of better, more qualified and respected person to serve on the Environmental Protection Agency's National Drinking Water Authority Council. It is with great pride and enthusiasm that I support Mr. *Exple* nomination to the National Drinking Water Advisory Council.

I respectfully request *Exple* candidacy be given every possible consideration and I am hopeful for a positive response. Should you have any additional questions, please feel free to contact me.

Sincerely,

*Phil Gingrey*  
Phil Gingrey, MD  
Member of Congress

PG:jok



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

NOV 15 2005

OFFICE OF  
WATER

The Honorable Phil Gingrey, MD  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Gingrey:

On behalf of the U.S. Environmental Protection Agency's Administrator, Steve Johnson, I want to thank you for your letter, dated October 11, 2005, endorsing the nomination of Mr. *Exp. Le* of Cobb County, Georgia for membership on the 2006 National Drinking Water Advisory Council (NDWAC). Now that the October 21, 2005, deadline for nominations has passed, my staff is preparing materials to begin the selection process, which I will briefly describe.

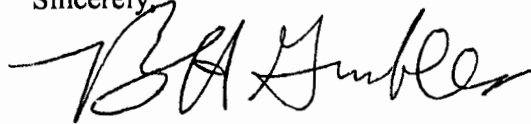
The Agency received over 40 nominations for the five vacancies to be filled before May 2006. There is a provision in the Safe Drinking Water Act that requires the Council to maintain a balance of membership, i.e., five members from state and local agencies concerned with drinking water, five members from interest groups concerned with drinking water, and five members from the general public. Included in the 15 members of the Council must be two representatives from small drinking water systems. The first step is to determine the membership category or categories for which each nominee would be eligible to represent. I expect that step to be completed by mid-November.

The Federal Advisory Committee Act also stipulates requirements for the selection process. While we have received all the data we need from each nominee, my staff has to develop many documents, e.g., tables, charts, narratives, etc. that must be included in the package used to select potential members of the Council. The package then goes through an extensive clearance process before it can be presented to the Deputy Administrator, which we anticipate will be mid-January 2006.

You can be assured that all nominees will be given full consideration. We recognize that nominees are experts in drinking water protection issues and appreciate their willingness to give their time, energy, and effort to advise the Agency on such matters. Moreover, we encourage nominees who are not selected for the 2006 NDWAC to reapply for 2007 because the composition of the Council changes yearly.

If you have any questions, please contact me or call Steven Kinberg, Office of Congressional and Intergovernmental Relations at 202-564-5037.

Sincerely,

A handwritten signature in black ink, appearing to read "B. H. Grumbles", written in a cursive style.

Benjamin H. Grumbles  
Assistant Administrator

# Congress of the United States

Washington, DC 20515

July 29, 2010

The Honorable Lisa Jackson  
Administrator  
US Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, NW  
Mail Code 1101A  
Washington, DC 20460

Re: Docket No: EPA-HQ-RCRA-2009-0640

Dear Administrator Jackson:

We are writing as a majority of the Members of the House Committee on Energy and Commerce to express our strong opposition to the regulation of coal combustion residuals (CCRs) under Subtitle C of the Resource Conservation and Recovery Act (RCRA) as proposed as an alternative in the proposal published by the Environmental Protection Agency (EPA) on June 21, 2010. We continue to believe that EPA should follow its final 2000 Regulatory Determination in which the Agency determined that regulation of CCRs under Subtitle C of RCRA is not warranted. In that determination, EPA determined that rules under Subtitle D of RCRA for CCRs could be fully protective of human health and the environment. The 2000 Determination was consistent with many decades of scientific analysis including additional EPA reviews concluding that CCRs do not warrant hazardous regulation. We have a number of serious concerns about the effects of the proposed reversal of these longstanding findings. As our economy struggles to rebound, we have grave concerns that this proposal could destroy jobs and increase electricity rates.

Within the United States, approximately 136 million tons of CCRs are produced annually. Currently around 44 percent of these tons are recycled into some form of beneficial use such as road construction materials or wall board. The recycling of these materials has well established environmental and economic benefits. The manufacture of these recycled materials employs approximately 4,000 American workers, and the products are less costly than if they had to be manufactured without the benefit of recycled components. Additionally, use of CCRs to manufacture these products results in less aggregate emissions by reducing the amount of products such as cement that would be needed in the absence of CCRs. Regardless of any attempted regulatory effort to carve out as permissible recycling efforts, the designation of CCRs as subject to hazardous waste regulation would inappropriately stigmatize uses of CCR that provide significant environmental or economic benefits and deal a crippling blow to the beneficial use industry, jeopardizing the associated jobs. The primary stated reason for regulation of CCRs has been concerns with their storage in landfills or impoundments. Subjecting these materials to RCRA's hazardous waste program and the subsequent reduction of

beneficial use would actually serve to increase the amount of material that would be diverted to disposal as waste.

We are additionally concerned about the potential unnecessary costs which would be imposed on electricity consumers as a result of Subtitle C regulation. Furthermore, the imposition of these regulations and subsequent costs may result in the closure of some coal fired electricity generating units, and the inflexible nature of RCRA's hazardous waste requirements would result in regulation of virtually all aspects of power plant operations due to the de minimis emissions from the operations of the plant. Permitted fugitive emissions, process related releases, and transportation releases would constitute improper hazardous waste disposal and subject facilities to non-compliance and RCRA Corrective Action. The Electric Power Research Institute has suggested that regulation of CCRs as hazardous waste could result in the loss of 14 percent of generating capacity in some regions of the nation. Closure of that amount of capacity would create reliability problems for the electric system and would cause electricity rates to increase unnecessarily.

While the Agency's hazardous designation proposed alternative would list CCRs as a "special waste" under Subtitle C, the effect is that the materials would be subject to the full requirements of hazardous waste under RCRA. In fact, the proposal would extend the regulations to previously closed, inactive CCR impoundments and would subject CCRs to more onerous disposal controls than for any hazardous waste currently regulated under Subtitle C.

Our opposition to regulation of CCRs under Subtitle C of RCRA is shared by a number of other entities. The comments of other federal agencies during the inter-agency review process of the proposed rule raised numerous concerns with this approach. Standard setting organizations, transportation officials, public utility commissions, users of CCRs and a majority of states have also opposed Subtitle C regulation.

States have effectively been regulating CCRs; however, if EPA is determined to regulate CCRs under RCRA, we strongly urge the Agency to abandon efforts to pursue Subtitle C regulation of CCRs and to follow the recommendations of its 2000 Final Regulatory Determination for CCRs by developing federal non-hazardous waste rules under Subtitle D. While we strongly prefer Subtitle D as compared to Subtitle C federal regulation, the Subtitle D option set forth in the Agency's proposed rule is not without flaws and requires some important adjustments for implementation. For example, we are particularly concerned with the failure to recognize the role of states in implementation of Subtitle D rules, the accelerated timeframes for the closure of certain CCR disposal facilities, with the siting restrictions that would be imposed on some existing facilities and with the enforcement provisions that would elevate the role of citizen suits. We understand that the Agency may be concerned about its lack of enforcement authority under a state operated Subtitle D approach; however, that obstacle should not be cause for more burdensome regulation, and we would welcome the opportunity to work with you on approaches which facilitate reasonable non-hazardous regulation of CCRs.

We appreciate your attention to our comments, and we look forward to working with you on this matter as the Agency proceeds with its rulemaking. With kind regards, we remain

Sincerely,



Rick Boucher  
Member of Congress



Fred Upton  
Member of Congress



Bart Stupak  
Member of Congress



Ralph Hall  
Member of Congress



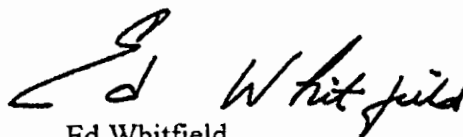
Charles Gonzalez  
Member of Congress



Cliff Stearns  
Member of Congress



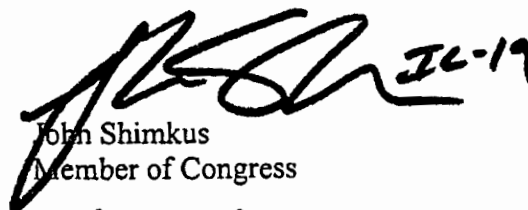
Mike Ross  
Member of Congress



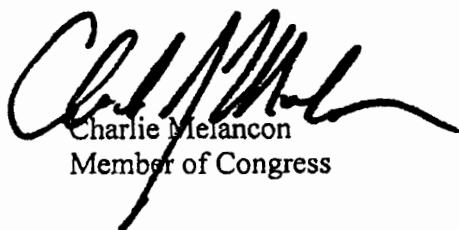
Ed Whitfield  
Member of Congress



Jim Matheson  
Member of Congress

 IL-19

John Shimkus  
Member of Congress



Charlie Melancon  
Member of Congress



John Shadegg  
Member of Congress



John Barrow  
Member of Congress



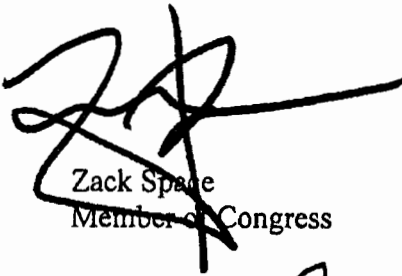
Roy Blunt  
Member of Congress



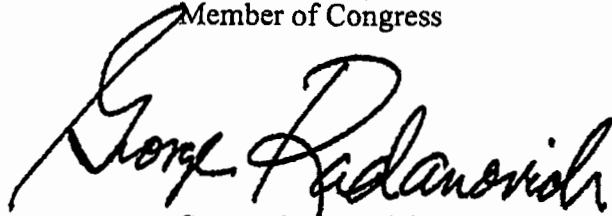
Baron Hill  
Member of Congress



Steve Buyer  
Member of Congress



Zack Space  
Member of Congress



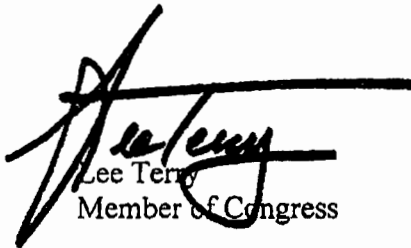
George Radanovich  
Member of Congress



Joe Pitts  
Member of Congress



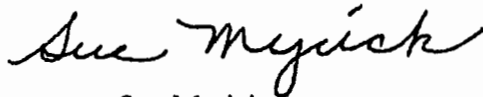
Greg Walden  
Member of Congress



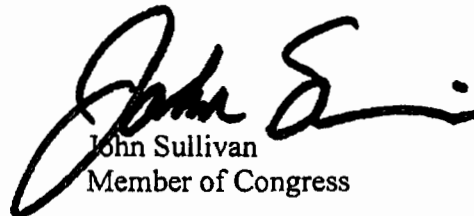
Lee Terry  
Member of Congress



Mike Rogers  
Member of Congress

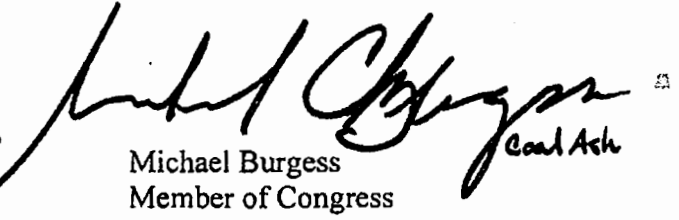


Sue Myrick  
Member of Congress



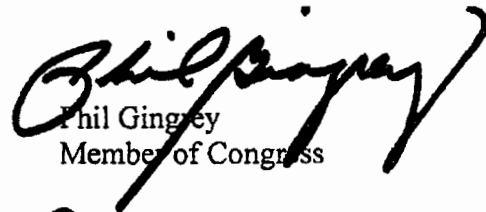
John Sullivan  
Member of Congress

  
Tim Murphy  
Member of Congress

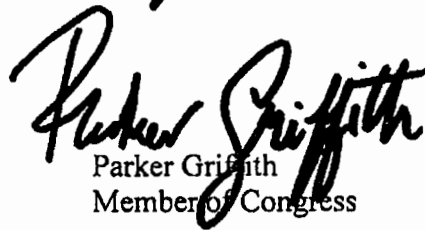
  
Michael Burgess  
Member of Congress


Carl Ash

  
Marsha Blackburn  
Member of Congress

  
Phil Gingrey  
Member of Congress

  
Steve Scalise  
Member of Congress

  
Parker Griffith  
Member of Congress

  
Robert Latta  
Member of Congress





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 26 2010

The Honorable Phil Gingrey  
U.S. House of Representatives  
Washington, D.C. 20515

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

Dear Congressman Gingrey:

Thank you for your letter of July 29, 2010, expressing your interest in the U.S. Environmental Protection Agency's (EPA) proposed rulemaking governing the management of coal combustion residuals (CCRs) and the potential adverse impacts associated with a possible re-classification of CCRs as a hazardous waste. In your letter, you also discuss the role of states in the management of CCRs.

In the proposed rule, EPA seeks public comment on two approaches available under the Resource Conservation and Recovery Act (RCRA). One option is drawn from remedies available under Subtitle C, which creates a comprehensive program of federally enforceable requirements for waste management and disposal. The other option includes remedies under Subtitle D, which gives EPA authority to set performance standards for waste management facilities which are narrower in scope and would be enforced primarily by those states who adopt their own coal ash management programs and by private citizen suits. EPA estimated the potential impact of the proposed rule on electricity prices assuming that 100% of the costs of the rule would be passed through to coal-fired electric utility customers. EPA estimated a potential increase of 0.015 cents per kilowatt-hour under the Subtitle D option to 0.070 cents per kilowatt-hour under the Subtitle C option in potential average electricity prices charged by coal-fired electric utility plants on a nationwide basis.

EPA is not proposing to regulate the beneficial use of CCRs. EPA continues to strongly support the safe and protective beneficial use of CCRs. However, EPA has identified concerns with some uses of CCRs in an unencapsulated form, in the event proper practices are not employed. While EPA does not want to negatively impact the legitimate beneficial use of CCRs, we are also aware of the need to fully consider the risks, management practices, and other pertinent information related to CCRs.

We appreciate the comment that states have effectively been regulating CCRs. We are taking comment on the effectiveness of state programs and will consider these comments in developing a final rule.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Raquel Snyder, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-9586.

Sincerely,

Mathy Stanislaus  
Assistant Administrator

**Congress of the United States**  
**Washington, DC 20515**

August 2, 2010

Administrator Lisa Jackson  
Environmental Protection Agency  
1200 Pennsylvania Avenue  
Washington, DC 20460-3300

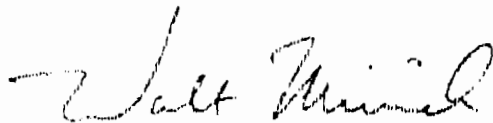
Dear Administrator Jackson:

We are writing to express our concern about the proposed Boiler MACT rule -- the Maximum Achievable Control Technology rule for industrial, commercial and institutional boilers and process heaters -- that was published on June 4<sup>th</sup>. As our nation struggles to recover from the current recession, we are deeply concerned that the potential impact of pending Clean Air Act regulations could be unsustainable for U.S. manufacturing and the high-paying jobs it provides. As the national unemployment rate hovers around 10 percent, and federal, state, and municipal finances are in dire straits, hundreds of thousands of manufacturing workers have lost their jobs in the past year alone. The flow of capital for new investment and hiring is still seriously restricted, and could make or break the viability of continued operations. Both small and large businesses are vulnerable to extremely costly regulatory burdens, as well as municipalities, universities, federal facilities, and commercial entities. While we support efforts to address serious health threats from air emissions, we also believe that regulations can be crafted in a balanced way that sustains both the environment and jobs.

We understand that the Boiler MACT rule alone could impose tens of billions of dollars in capital costs at thousands of facilities across the country. Thus, we appreciate your willingness, as expressed in your responses to other recent Congressional letters, to consider flexible approaches that appropriately address the diversity of boilers, operations, sectors, and fuels that could prevent severe job losses and billions of dollars in unnecessary regulatory costs. The proposal asks for comment on an approach that would allow facilities to demonstrate that emissions of certain pollutants do not pose a public health threat. The discussion concludes that the use of the authority under section 112(d)(4) is discretionary and the Agency does not support its use in Boiler MACT. We believe that provision reflects Congress' intent to provide for flexibility where there is not a public health threat. In such cases, it makes sense to allow that approach in the final rule for threshold substances such as hydrogen chloride and manganese. In addition, EPA should use a method to set emissions standards that is based on what real world best performing units actually can achieve. EPA should not ignore biases in its emissions database, the practical capabilities of controls or the variability in operations, fuels and testing performance across the many regulated sectors.

As EPA turns to developing a final Boiler MACT rule, we hope you will carefully consider sustainable approaches that protect the environment and public health while fostering economic recovery and jobs within the bounds of the law. Thank you for your consideration of these views.

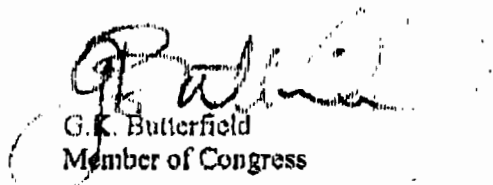
Sincerely,



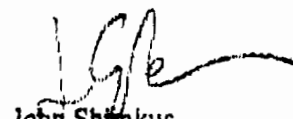
Walt Minnick  
Member of Congress



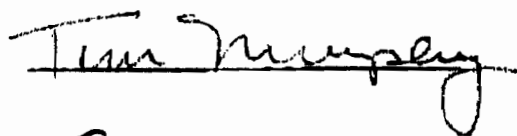
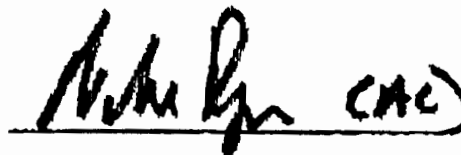
Robert B. Aderholt  
Member of Congress


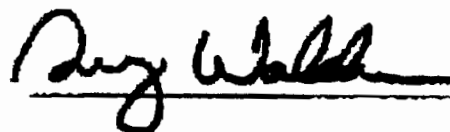
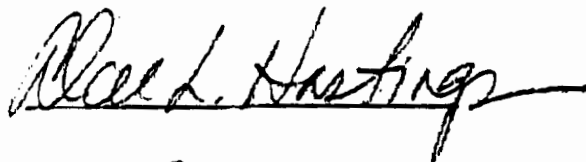


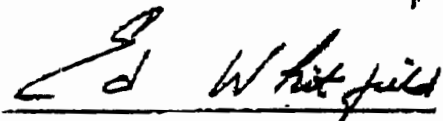
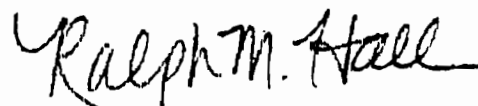
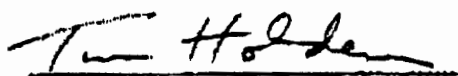
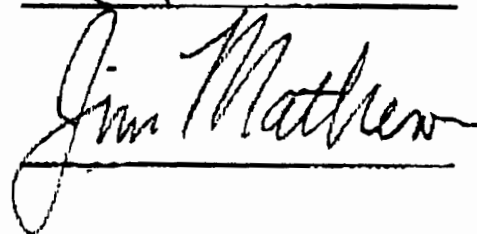
G.K. Butterfield  
Member of Congress



John Shinkus  
Member of Congress

Scott Murphy

Bob B. B.

Glenn GT Thompson

Arthur Davis

Carlson

James R.

Kenny MacInt

Phil Singsley

Candice S. Miller

MT B.

Mal Rog (M2.8)

Wally Hergen

Bill Shuster

John B.

Patricia J. H.

Sue Myrick

Kari B.

Debra Blackwell

Gregg Harper

Rodney S.

Charles J. Melton  
LA-03

Paul Davis

Robert Griffith

Joseph R. Pitts

Harold

Phil Kane

David Sealie

Charles P. Cag

Jim Marshall

Charles M. Mays

John E.

Chad

William

Samuel

Brett Lathrop

David Lathrop

Lang Kinnel

Jan Schmidt

Kathy DeHoff

John J. Dunning

John Brennan  
 Cynthia P. Lunnis

Steve Chaffee

John Fleming  
 Jeff Davis

William J. ...  
 Bob Smith

Billy Bright

Paul ...

Steve Kagen MD

Ann ...  
 John Spratt

Mark Schneider

David L. ...

Virginia Foxe

Frank ...  
 Mrs. ...

Bob Elder

Michael H. ...

Joe Donnelly

Dick Boucher

Spencer Barker

Jo Bonner

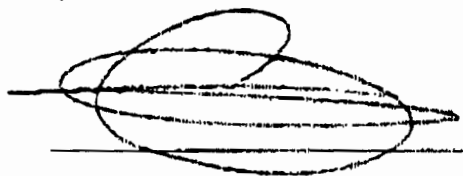
Marion Berry

Bill Owen

Pete Olson

Lee Hg

Harold Cole



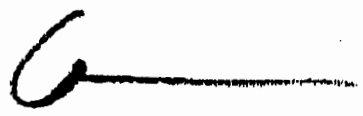
Bart Stupak

Bob Goodlatte

Jim Oberstar

Tim Peter

Danmy Rehberg



Mike McIntyre

Rich Lipton

Frank Math

DANIEL W. CHILDERS

Daniel Lipinski

Robert J. Bump

Shelley Moore Cassito

Gann Emerson

S. C. Zim

Christopher Lee

Stephanie Hewitt Sandlin

Mike Row

Jeff Miller

Colin D. ...

cc: Regina McCarthy, Environmental Protection Agency  
Robert Perciasepe, Environmental Protection Agency  
Robert Sussman, Environmental Protection Agency  
Cass Sunstein, Office of Management and Budget  
Lawrence Summers, National Economic Council





## Congressman Walt Minnick

**1517 Longworth House Office Bldg.**

**Washington, DC 20515**

**(202) 225-6611**

**(202) 225-3029 Fax**

**To: Administrator Lisa Jackson**

Fax #: 202-501-1519

CC: \_\_\_\_\_

From: Congressman Minnick

Re: \_\_\_\_\_

**Date: 7/03/2010**

**Total # of Pages:** 8

**Comments:**



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

**AUG 26 2010**

OFFICE OF  
AIR AND RADIATION

The Honorable Phil Gingrey  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Gingrey:

Thank you for your letter of August 2, 2010, co-signed by 105 of your colleagues, to the U.S. Environmental Protection Agency (EPA) concerning the potential economic impact of the proposed standards for industrial, commercial, and institutional boilers and process heaters (the Boiler MACT). The Administrator asked that I respond to your letter.

As you may know, EPA's maximum achievable control technology standards, or MACT standards, are based on the emissions levels already achieved by the best-performing facilities. When developing a MACT standard for a particular source category, EPA looks at the level of emissions currently being achieved by the best-performing similar sources through clean processes, control devices, work practices, or other methods. These emission levels set a baseline (often referred to as the "MACT floor") for the new standards. To set the MACT floor, EPA follows a series of steps. First, EPA ranks the performance of each unit for which we have data from lowest to highest emitting. Second, we average the emissions of the top performing 12 percent of units, taking into account the variability in the performance of those units. Third, we incorporate this statistical variability to set the numerical emission limit. We repeat this process for each air toxic in a category. At a minimum, a MACT standard must achieve, throughout the industry, a level of control that is at least equivalent to the MACT floor. EPA can establish a more stringent standard when this makes economic, environmental, and public health sense.

These rules are an important part of our continued commitment to reducing toxic air pollution in communities. Many of the approaches that facilities may choose to meet the proposed emission limits have been available and in use for decades – from add-on control technologies such as baghouses, carbon injection or scrubbers to good combustion practices and increased energy efficiency.

When completed, the boiler rules would improve air quality by reducing emissions of highly toxic chemicals – including mercury and lead – from sources nationwide. Combined, the boiler proposals would reduce more than 16,000 pounds of mercury emissions – including deep cuts in mercury emissions from industrial boilers, which are among the top three sources of mercury emissions in the United States. Mercury and lead can cause adverse effects on children's developing brains, including effects on IQ, learning, and memory. The boiler rules

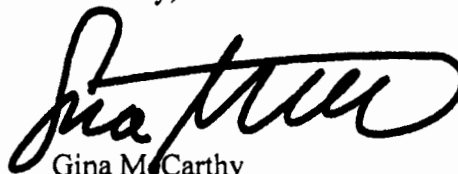
would also reduce emissions of other pollutants including cadmium, dioxin, furans, formaldehyde and hydrochloric acid. These pollutants can cause cancer or other adverse health effects in adults and children.

We estimate the proposed cuts would have direct benefits to many communities where people live very close to these units – including combined health benefits estimated at \$18 billion to \$43 billion annually. As proposed, each year these rules would avoid an estimated 2,000 to 5,100 premature deaths, 1,400 cases of chronic bronchitis, 35,000 cases of aggravated asthma, and 1.6 million occurrences of acute respiratory symptoms.

In your letter, you request that EPA give appropriate attention to the economic impacts of the boiler rules, including the potential for job losses resulting from the large capital costs that may be required to meet the standards. The public comment period for the proposed rulemakings closed on August 23, 2010, and we are in the process of summarizing the comments, including those contained in your letter, so that we can make informed decisions using all of the information that is available to us. To the extent that new information has been provided that supports changes to the standards that could lessen the economic impacts while still fulfilling our obligations under the statute, we will give full consideration to such information. In addition, we specifically requested comment on several flexible approaches that could lessen the economic impacts of the rules, and to the extent that we receive new information that demonstrates that such provisions are allowed under the statute, we will revise the final rule as appropriate. We requested that additional data be provided to EPA so that the standards can be based on a robust data set that accurately portrays the emission reductions achieved by the best performing sources, including variability. We will incorporate new data into our analyses as we develop the final standards.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Cheryl Mackay, in EPA's Office of Congressional and Intergovernmental Relations, at 202-564-2023.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina McCarthy", with a stylized, flowing script.

Gina M. McCarthy  
Assistant Administrator

**Congress of the United States**  
**Washington, DC 20515**

March 29, 2011

The Honorable Lisa Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave. NW  
Washington, DC 20460

Dear Administrator Jackson:

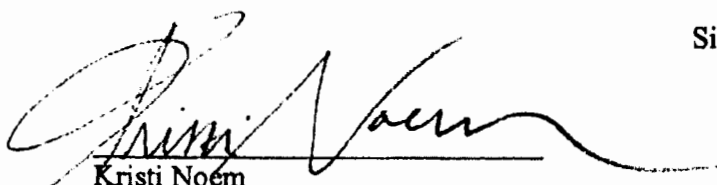
We write today to express our concerns about the U.S. Environmental Protection Agency's (EPA) potential revision to the National Ambient Air Quality Standards (NAAQS) for Coarse Particulate Matter (PM<sub>10</sub>), more commonly known as dust. Making the PM<sub>10</sub> standard more stringent would have a devastating impact on farmers, ranchers, and all of rural America. This could cost farmers and businesses millions of dollars in compliance costs, greatly slowing economic development in rural communities where job creation is desperately needed.

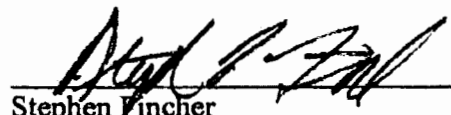
For many areas of the country, especially in rural America, dust occurs naturally and is a simple fact of life. There are many activities essential to farming such as plowing, planting, and harvesting which involve dust. Even driving down an unpaved road raises dust. These regulations could decrease the ability of the agriculture community in the United States to meet the world's food needs as well as decrease productivity, increase food prices, and incur job losses in rural America.

The potential revision of the NAAQS to a level of 65-85 µg/m<sup>3</sup> is below naturally occurring levels of dust in some states, making it impossible to meet. By EPA's own admission, the number of counties in nonattainment would more than double. Not surprisingly, these areas are primarily located in rural, dry parts of the country. At a time when the focus of the Administration should be on economic development and job creation, the EPA is instead promulgating rules which may have the opposite effect. If implemented, the proposed standards could subject farmers, livestock producers, and industry to burdensome regulations which could result in fines amounting to \$37,500 a day for violations. Even EPA's 2<sup>nd</sup> Draft Policy Assessment acknowledges that uncertainties in scientific studies would allow the EPA to retain the current standard.

There are no better stewards of the land than America's agriculture community. Given the difficulty and expensive process of mitigating dust in most settings, the revised standards could have a devastating impact on rural economies and greatly reduce our nation's food security. If, as the agency has determined, rural fugitive dust has been found to be of less public health concern than dust in urban areas, there is no reason to adopt the revised standard. We strongly encourage the EPA not to implement the more stringent proposed standards.

Sincerely,

  
Kristi Noem  
Member of Congress

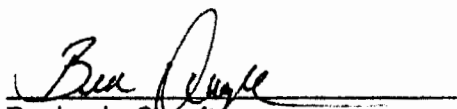
  
Stephen Fincher  
Member of Congress



Adam Kinzinger  
Member of Congress



Austin Scott  
Member of Congress



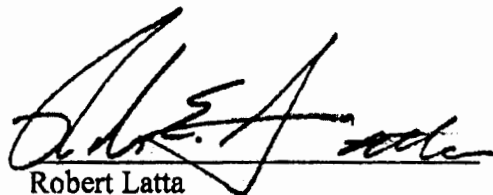
Benjamin Quayle  
Member of Congress



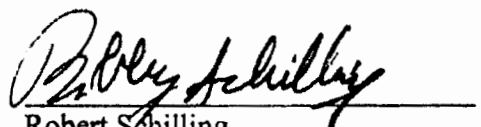
Bill Shuster  
Member of Congress



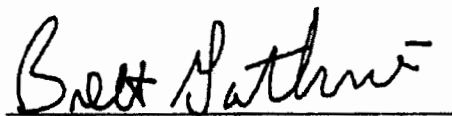
Bob Goodlatte  
Member of Congress



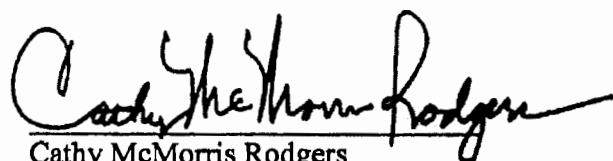
Robert Latta  
Member of Congress



Robert Schilling  
Member of Congress



Brett Guthrie  
Member of Congress



Cathy McMorris Rodgers  
Member of Congress

 TN-3

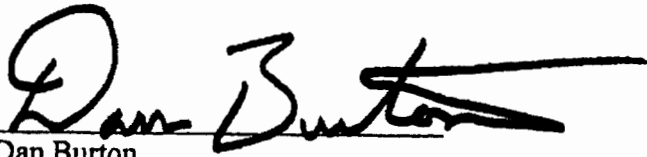
Charles "Chuck" Fleischmann  
Member of Congress



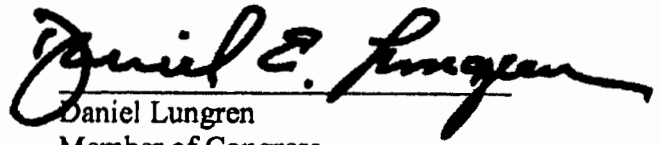
Cory Gardner  
Member of Congress



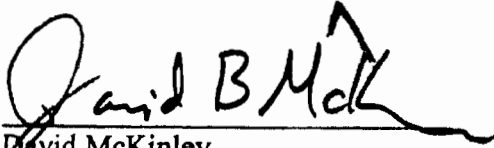
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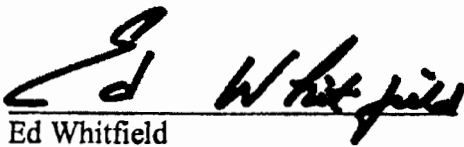
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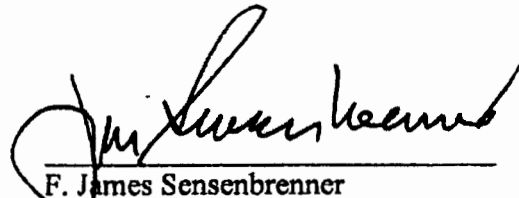
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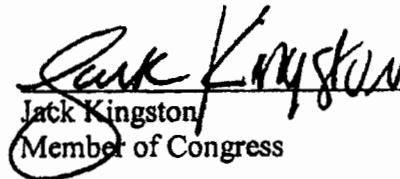
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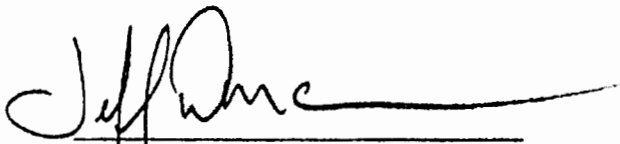
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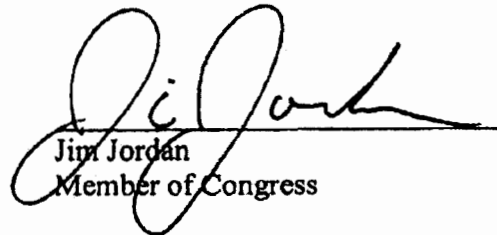
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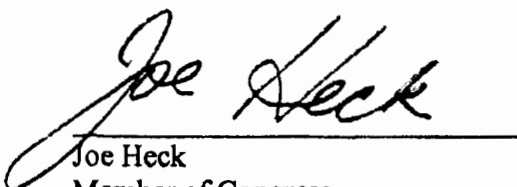
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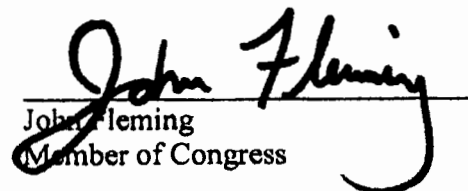
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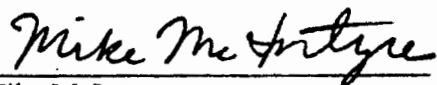
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Joe Heck  
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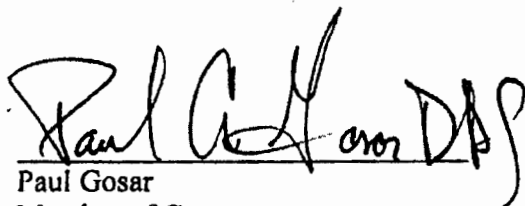
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Mike McIntyre  
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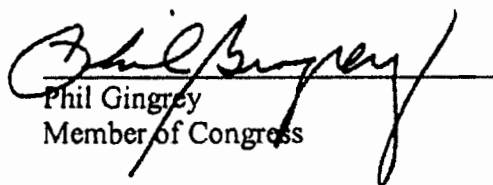
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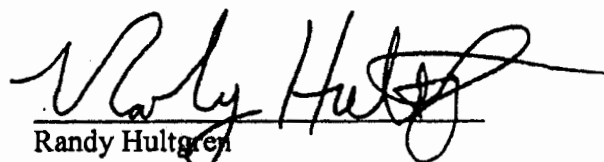
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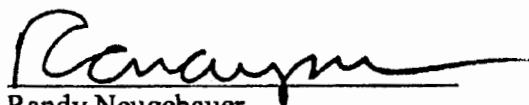
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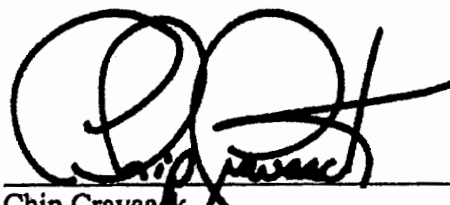
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Randy Hultgren  
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Randy Neugebauer  
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Chip Cravaak  
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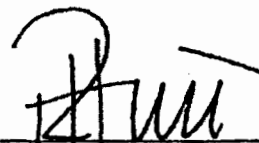
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Rick Crawford  
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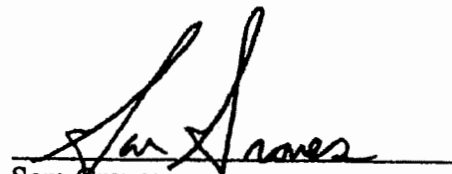


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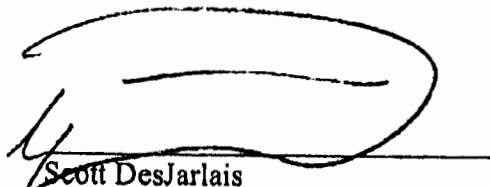
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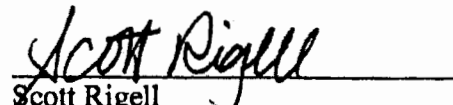
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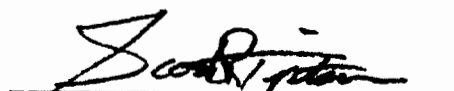
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Scott DesJarlais  
Member of Congress




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Scott Rigell  
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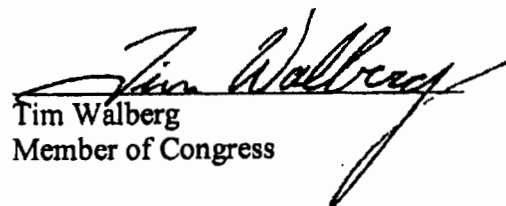
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Tim Griffin  
Member of Congress



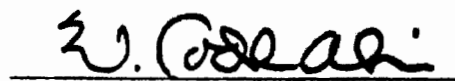
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Tim Huelskamp  
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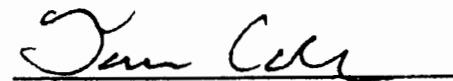
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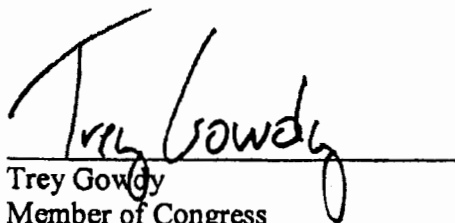
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Todd Akin  
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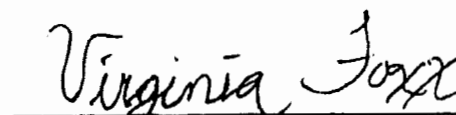
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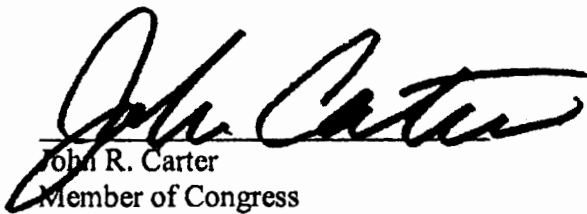
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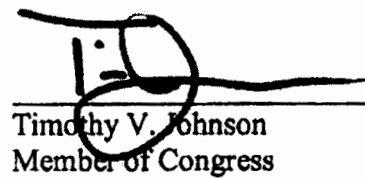


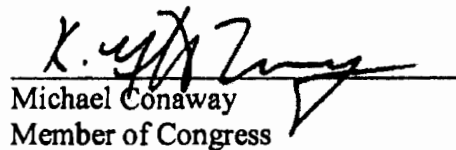
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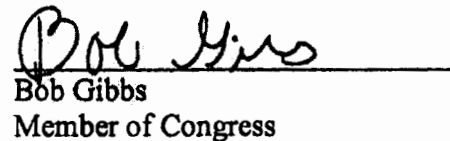
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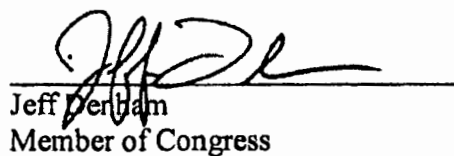


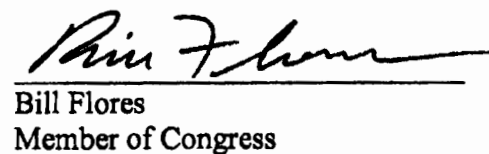
  
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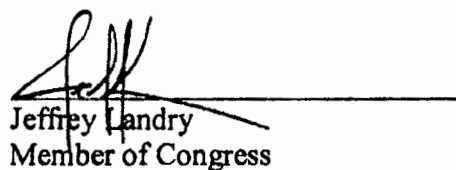
  
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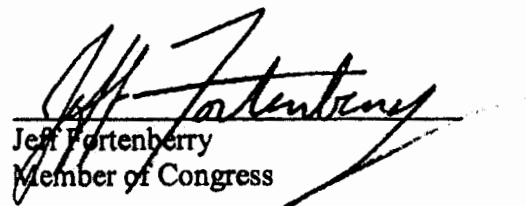
  
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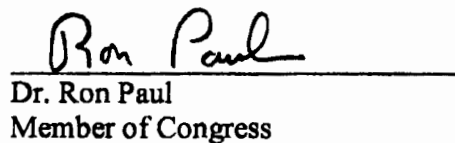
  
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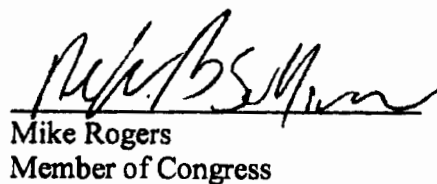
  
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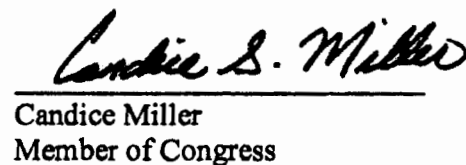
  
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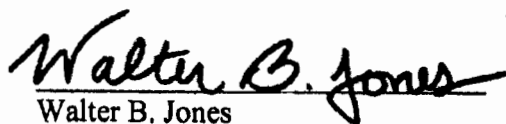
  
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Dr. Ron Paul  
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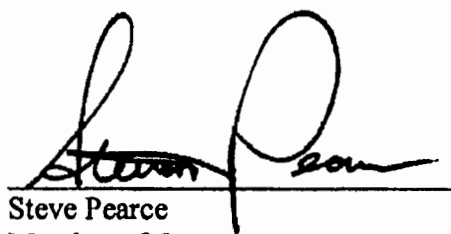
  
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Mike Rogers  
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Walter B. Jones  
Member of Congress



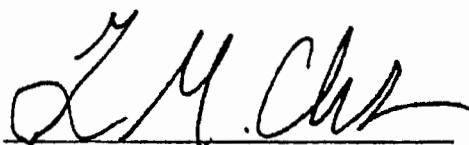
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Chris Gibson  
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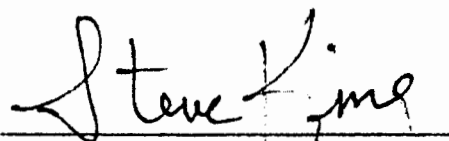
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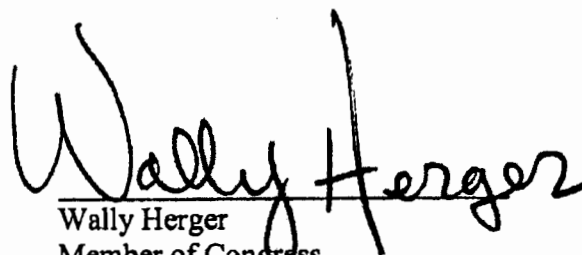
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Marlin Stutzman  
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Steve King  
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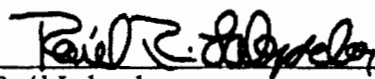
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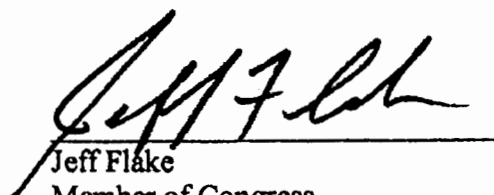
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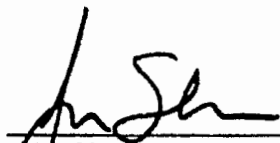
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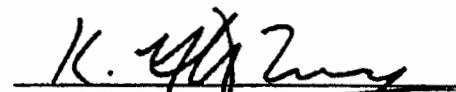


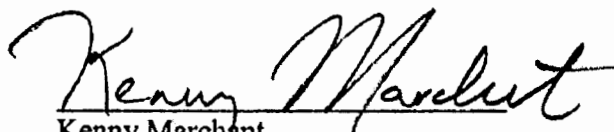
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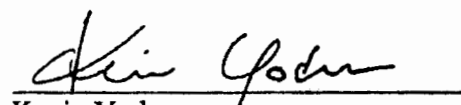
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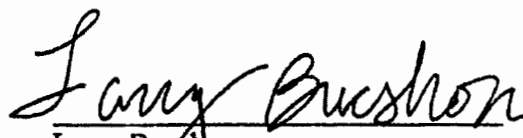
  
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Kevin Yoder  
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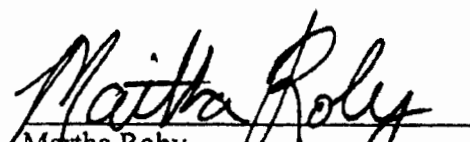
  
Larry Bucshon  
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Larry Kissel  
Member of Congress

  
Louie Gohmert  
Member of Congress

  
Lynn Jenkins  
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Mac Thornberry  
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Martha Roby  
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Mike Coffman  
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Renee Ellmers  
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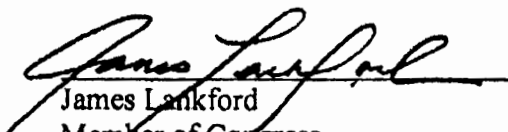
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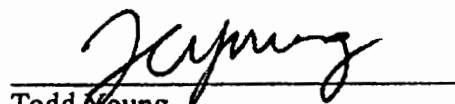
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Spencer Bachus  
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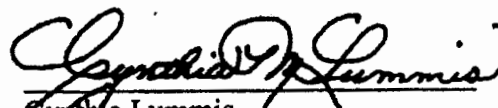
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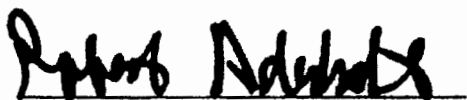
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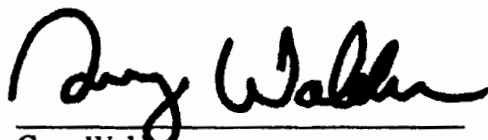
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Robert Aderholt  
Member of Congress



Jo Ann Emerson  
Member of Congress



Greg Walden  
Member of Congress

David P. Roe

David P. Roe  
Member of Congress

Vicky Hartzler

Vicky Hartzler  
Member of Congress

Tom Reed NY 29

Tom Reed  
Member of Congress

Steven M. Palazzo

Steven M. Palazzo  
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAY 10 2011

OFFICE OF  
AIR AND RADIATION

The Honorable Phil Gingrey  
U.S. House of Representatives  
Washington D.C. 20515

Dear Congressman Gingrey:

Thank you for your letter of March 29, 2011, co-signed by 100 of your colleagues, expressing your concerns over the ongoing review of the National Ambient Air Quality Standards (NAAQS) for particulate matter (PM). The Administrator asked that I respond to your letter.

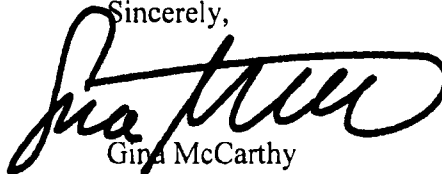
I appreciate the importance of NAAQS decisions to state and local governments, in particular to areas with agricultural communities, and I respect your perspectives and opinions. I also recognize the work that states have undertaken to improve air quality across the country. The NAAQS are set to protect public health from outdoor air pollution, and are not focused on any specific category of sources or any particular activity (including activities related to agriculture or rural roads). The NAAQS are based on consideration of the scientific evidence and technical information regarding health and welfare effects of the pollutants for which they are set.

No final decisions have been made on revising the PM NAAQS. In fact, we have not yet released a formal proposal. Currently, we continue to develop options, including the option of retaining the current 24-hour coarse PM standard. To facilitate a better understanding of the potential impacts of PM NAAQS standards on agricultural and rural communities, the U.S. Environmental Protection Agency recently held six roundtable discussions around the country. This is all part of the open and transparent rulemaking process that provides Americans with many opportunities to offer their comments and thoughts. Your comments will be fully considered as we proceed with our deliberations.

Under the Clean Air Act, decisions regarding the NAAQS must be based solely on an evaluation of the scientific evidence as it pertains to health and environmental effects. Thus, the agency is prohibited from considering costs in setting the NAAQS. But cost can be – and is – considered in developing the control strategies to meet the standards (i.e., during the implementation phase). Furthermore, I want to assure you that the EPA does appreciate the importance of the decisions on the PM NAAQS to agricultural communities. We remain committed to common sense approaches to improving air quality across the country without placing undue burden on agricultural and rural communities.

Again, the Administrator and I thank you for your letter. If you have further questions, please contact me or your staff may contact Cheryl Mackay in the Office of Congressional and Intergovernmental Relations at (202) 564-2023.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina McCarthy", with a large, sweeping flourish at the end.

Gina McCarthy  
Assistant Administrator

**Congress of the United States**  
**Washington, DC 20515**

April 14, 2011

The Honorable Lisa P. Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

The Honorable Jo-Ellen Darcy  
Assistant Secretary of the Army  
for Civil Works  
108 Army Pentagon  
Room 3E446  
Washington, DC 20310-0108

Dear Administrator Jackson and Assistant Secretary Darcy:

In December 2010, the Environmental Protection Agency and Corps of Engineers (collectively, the "Agencies") sent draft "Clean Water Protection Guidance" to the Office of Management and Budget for regulatory review. The intent of the document is to describe how the Agencies will identify waters subject to jurisdiction under the Federal Water Pollution Control Act of 1972 (more commonly known as the "Clean Water Act") and implement the U.S. Supreme Court's decisions in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers (SWANCC)* and *United States v. Rapanos (Rapanos)* concerning the extent of waters covered by the Act. Further, this document would supersede guidance that the Agencies previously issued in 2003 and 2008 on determining the scope of "waters of the United States" subject to Clean Water Act programs.

In our view, this "Guidance" goes beyond clarifying the scope of "waters of the United States" subject to Clean Water Act programs. Rather, it is aimed, as even the Agencies acknowledge, at "increas[ing] significantly" the scope of the Clean Water Act's jurisdiction over more waters and more provisions of the Clean Water Act as compared to practices under the currently applicable 2003 and 2008 guidance. ("Guidance," at 1.)

It appears that the Agencies intend to expand the applicability of this "Guidance" beyond section 404 to all other Clean Water Act provisions that use the term "waters of the United States," including sections 402, 401, 311, and 303. Moreover, the Agencies intend to "alleviate the need to develop extensive administrative records for certain jurisdictional determinations" ("Guidance," at 1), thereby shifting the burden of proving the jurisdictional status of a "water" from the Agencies to the regulated community, and thus making the provisions of this "Guidance" binding on the regulated community.

In light of the substantive changes in policy that the Administration is considering with this "Guidance," we are extremely concerned that this "Guidance" amounts to a *de facto* rule instead of mere advisory guidelines. Additionally, we fear that this "Guidance" is an attempt to



short-circuit the process for changing agency policy and the scope of Clean Water Act jurisdiction without following the proper, transparent rulemaking process that is dictated by the Administrative Procedure Act.

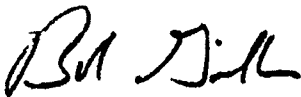
This "Guidance" would substantively change the Agencies' policy on waters subject to jurisdiction under the Clean Water Act; undermine the regulated community's rights and obligations under the Clean Water Act; and erode the Federal-State partnership that has long existed between the States and the Federal Government in implementing the Clean Water Act. By developing this "Guidance," the Agencies have ignored calls from state agencies and environmental groups, among others, to proceed through the normal rulemaking procedures, and have avoided consulting with the States, which are the Agencies' partners in implementing the Clean Water Act.

The Agencies cannot, through guidance, change the scope and meaning of the Clean Water Act or the statute's implementing regulations. If the Administration seeks statutory changes to the Clean Water Act, a proposal must be submitted to Congress for legislative action. If the Administration seeks to make regulatory changes, a notice and comment rulemaking is required.

We are very concerned by the action contemplated by the Agencies, and we strongly urge you to reconsider the proposed "Guidance."

Thank you for your attention to this matter.

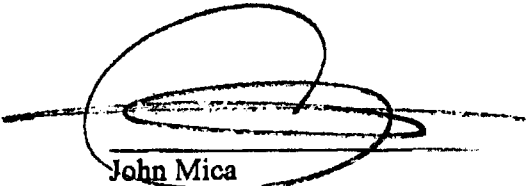
Sincerely,



Bob Gibbs  
Member of Congress



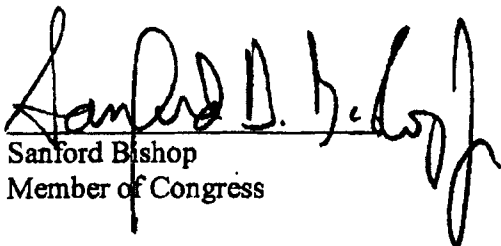
Tim Holden  
Member of Congress



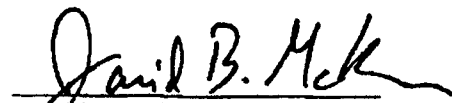
John Mica  
Member of Congress



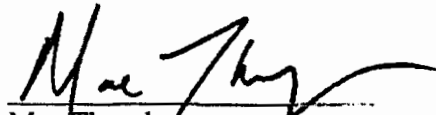
Nick Rahall  
Member of Congress

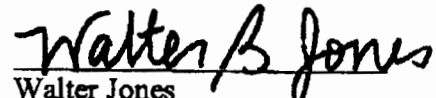



Sanford Bishop  
Member of Congress




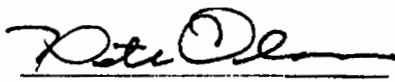
David McKinley  
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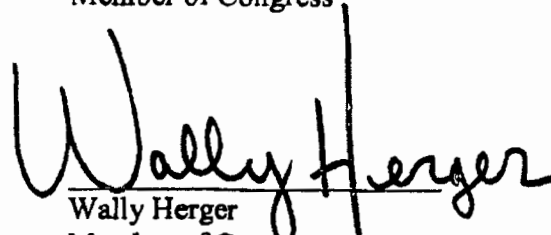
  
 Mac Thornberry  
 Member of Congress

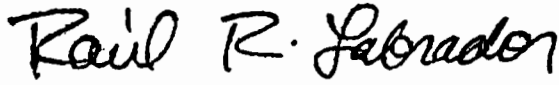
  
 Walter Jones  
 Member of Congress


  
 Jeff Landry  
 Member of Congress

  
 John Carter  
 Member of Congress

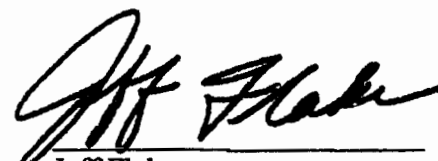
  
 Pete Olson  
 Member of Congress

  
 Wally Herger  
 Member of Congress

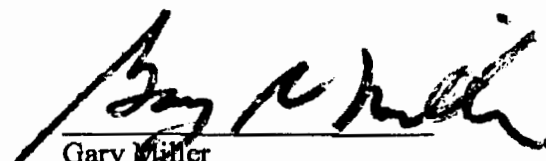
  
 Raúl Labrador  
 Member of Congress

  
 Michael Conaway  
 Member of Congress

  
 James Lankford  
 Member of Congress

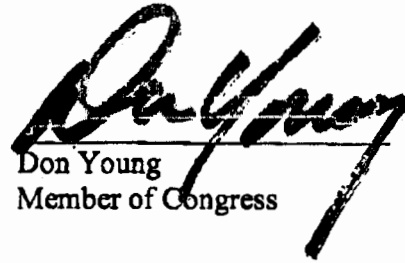
  
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 Member of Congress

  
 Shelley Moore Capito  
 Member of Congress

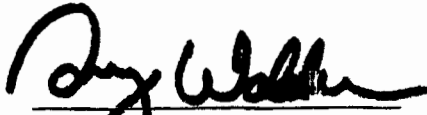
  
 Gary Miller  
 Member of Congress



Brett Guthrie  
Member of Congress



Don Young  
Member of Congress



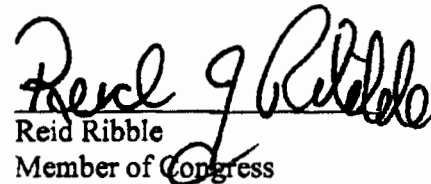
Greg Walden  
Member of Congress



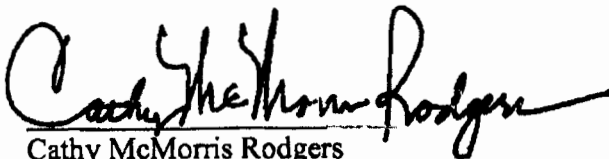
Hal Rogers  
Member of Congress



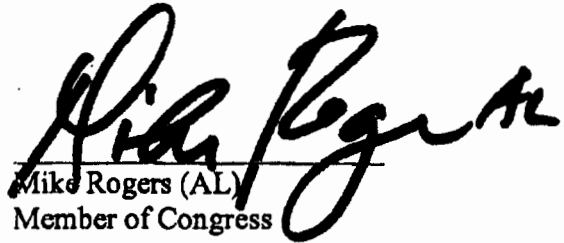
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Member of Congress



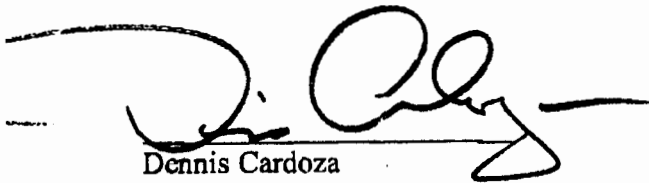
Reid Ribble  
Member of Congress



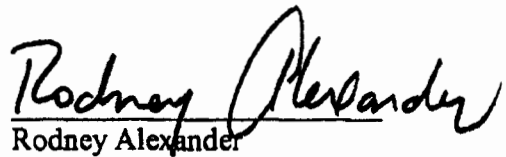
Cathy McMorris Rodgers  
Member of Congress



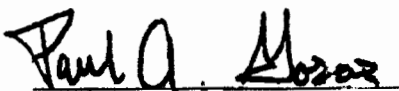
Mike Rogers (AL)  
Member of Congress



Dennis Cardoza  
Member of Congress



Rodney Alexander  
Member of Congress

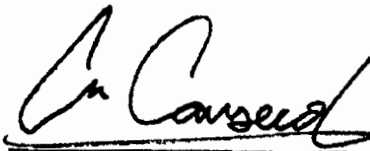



Paul Gosar  
Member of Congress

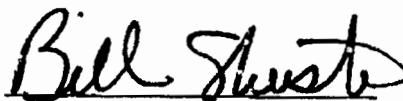


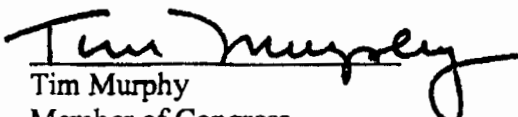
Glenn Thompson  
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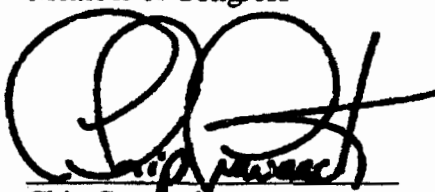
  
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Member of Congress


  
Francisco Canseco  
Member of Congress

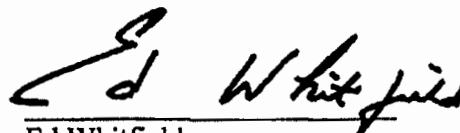
  
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Member of Congress

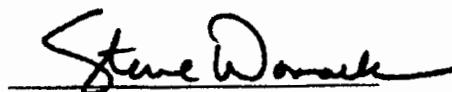
  
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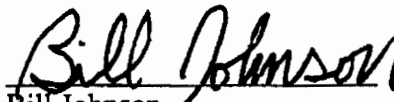
  
Tim Murphy  
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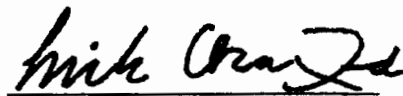
  
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Collin Peterson  
Member of Congress

  
Ed Whitfield  
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Steve Womack  
Member of Congress

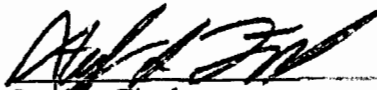
  
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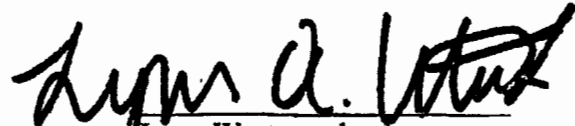
  
Rick Crawford  
Member of Congress


  
Mike Simpson  
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 Tom Marino  
 Member of Congress


  
 Rob Bishop  
 Member of Congress

  
 Stephen Fincher  
 Member of Congress


  
 Lynn Westmoreland  
 Member of Congress

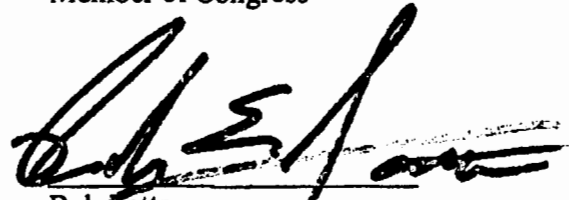
  
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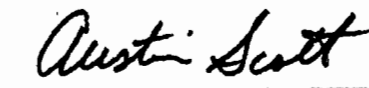
  
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 Adam Kinzinger  
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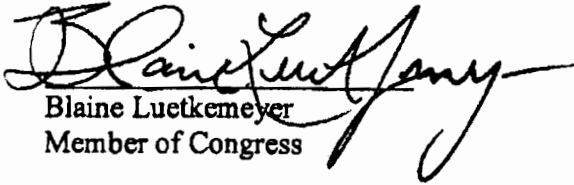
  
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 Tom Cole  
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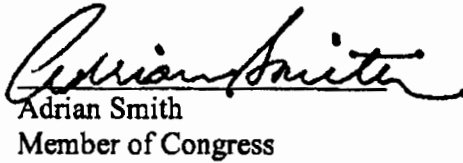
  
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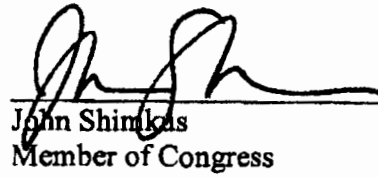
  
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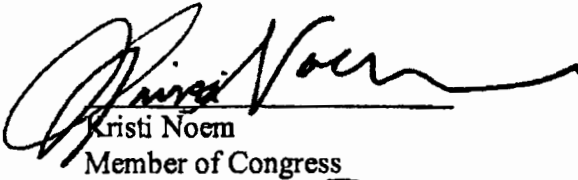
  
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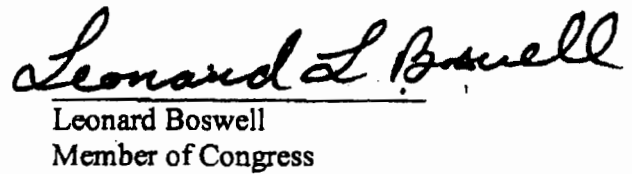
  
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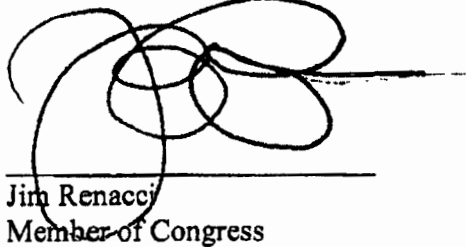
  
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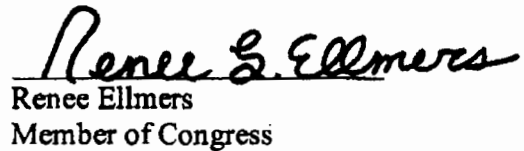
  
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Member of Congress

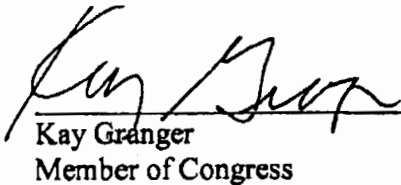
  
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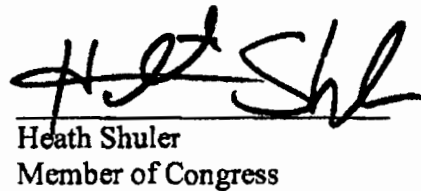
  
Kristi Noem  
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Leonard Boswell  
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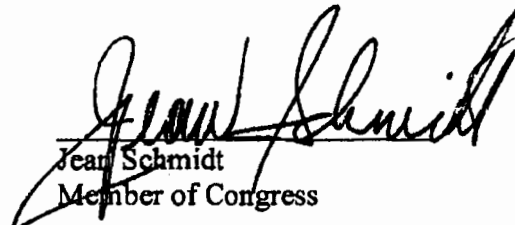
  
Jim Renacci  
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Renee Ellmers  
Member of Congress

  
Kay Granger  
Member of Congress

  
Heath Shuler  
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Mike Coffman  
Member of Congress

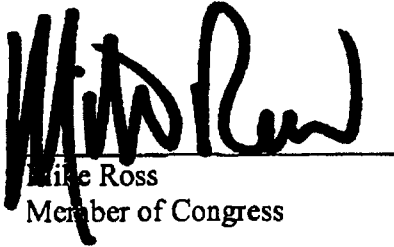
  
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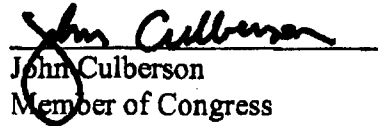
Howard Coble  
Member of Congress



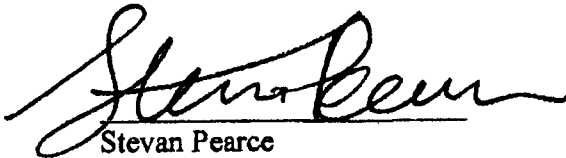
Lou Barletta  
Member of Congress



Mike Ross  
Member of Congress



John Culberson  
Member of Congress



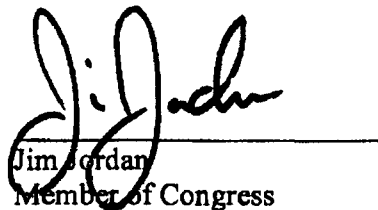
Stevan Pearce  
Member of Congress



Todd Rokita  
Member of Congress



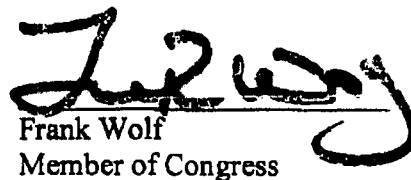
Steve Chabot  
Member of Congress



Jim Jordan  
Member of Congress



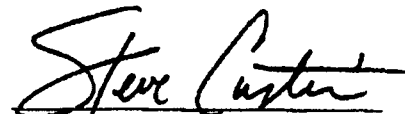
Scott DesJarlais  
Member of Congress



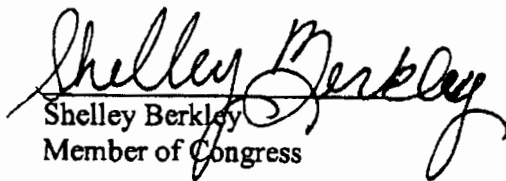
Frank Wolf  
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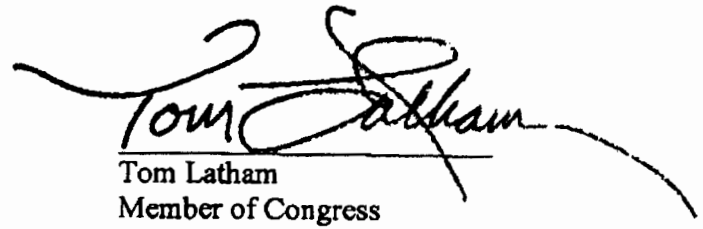


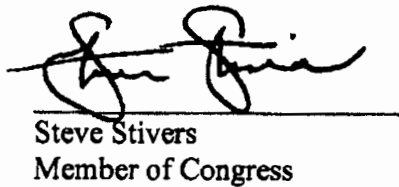
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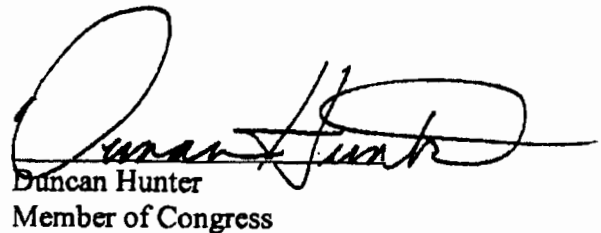


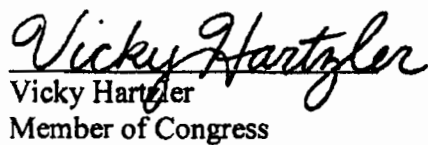
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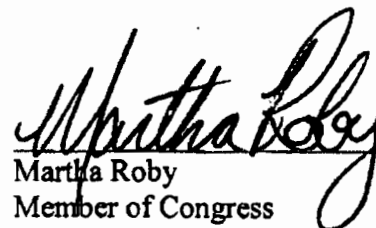
  
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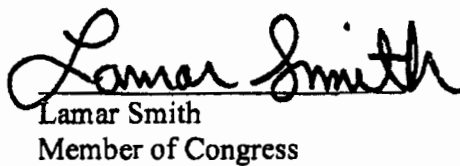
  
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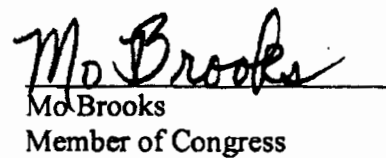
  
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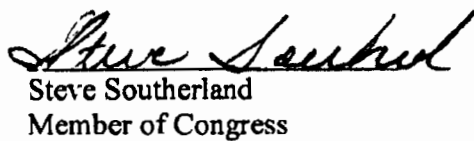
  
Duncan Hunter  
Member of Congress

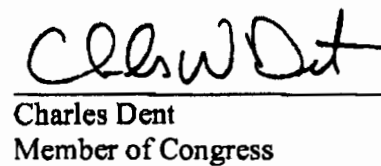
  
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Member of Congress

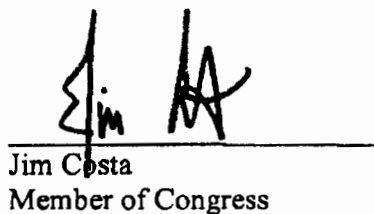
  
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Member of Congress

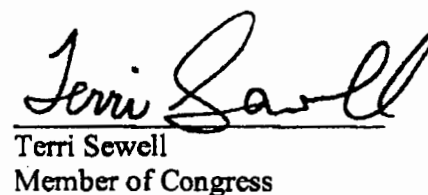
  
Lamar Smith  
Member of Congress

  
Mo Brooks  
Member of Congress

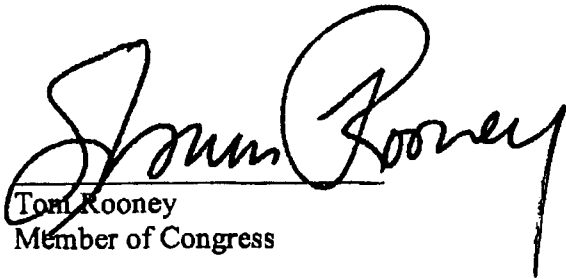
  
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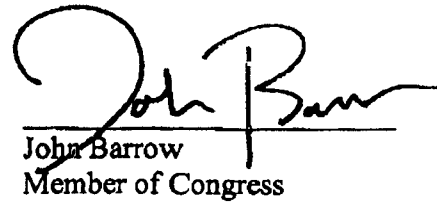
  
Charles Dent  
Member of Congress

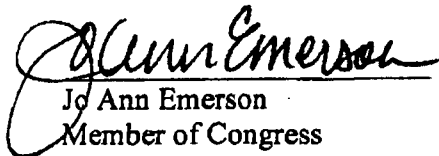
  
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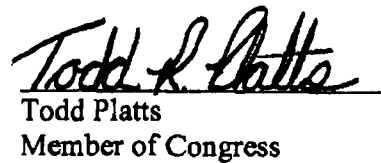
  
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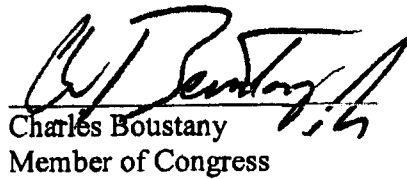


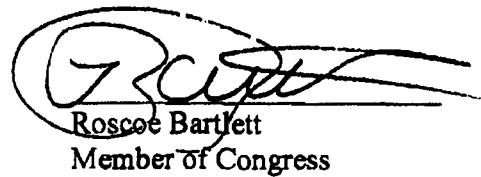
  
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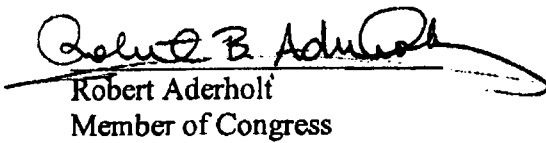
  
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Jo Ann Emerson  
Member of Congress

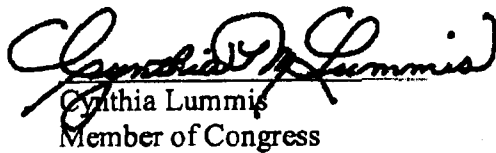
  
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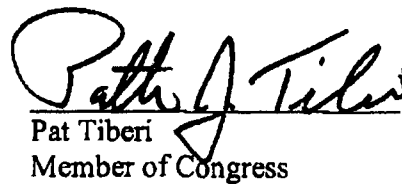
  
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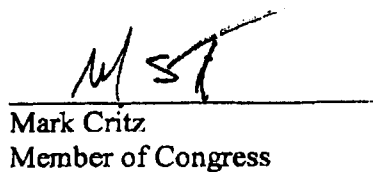
  
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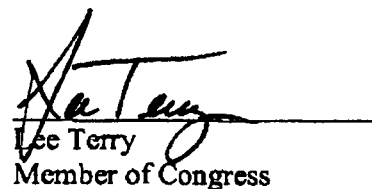
  
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Member of Congress

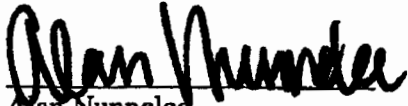
  
Lynn Jenkins  
Member of Congress

  
Cynthia Lummis  
Member of Congress

  
Pat Tiberi  
Member of Congress

  
Mark Critz  
Member of Congress

  
Lee Terry  
Member of Congress



Alan Nunnelee  
Member of Congress



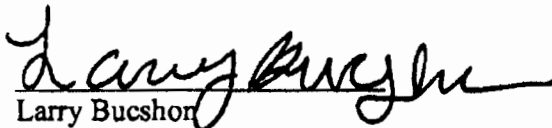
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Member of Congress



Randy Neugebauer  
Member of Congress



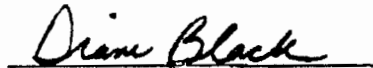
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Member of Congress



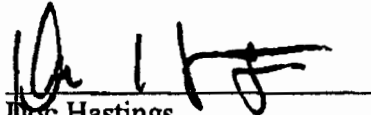
Larry Bucshon  
Member of Congress



Devin Nunes  
Member of Congress



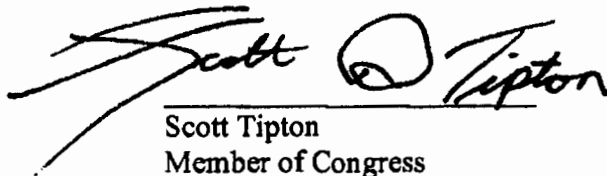
Diane Black  
Member of Congress



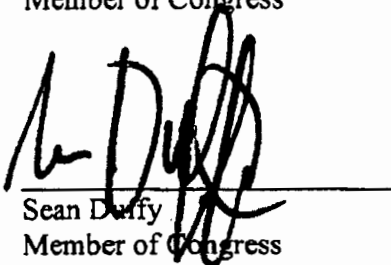
Doc Hastings  
Member of Congress




Phil Roe  
Member of Congress




Scott Tipton  
Member of Congress




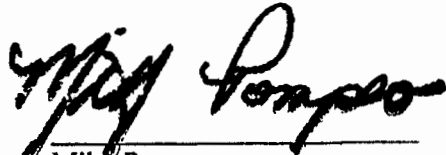
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Member of Congress

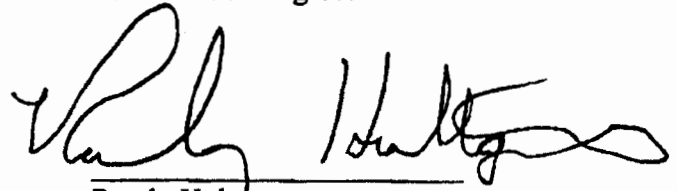



Jason Altmire  
Member of Congress

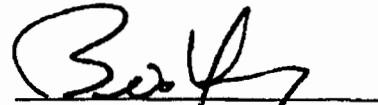
  
 Jim Matheson  
 Member of Congress


  
 Bobby Schilling  
 Member of Congress


  
 Mike Pompeo  
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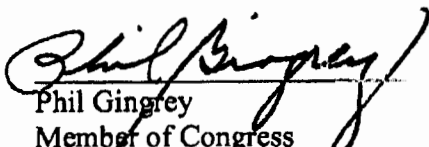
  
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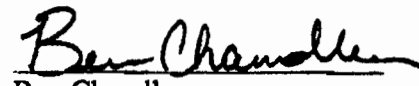
  
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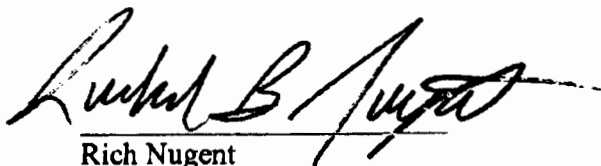
  
 C.W. Bill Young  
 Member of Congress

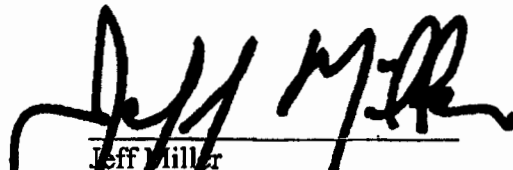
  
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 Member of Congress

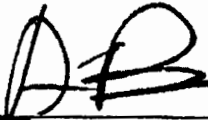
  
 Tom McClintock  
 Member of Congress

  
 Phil Gingrey  
 Member of Congress

  
 Ben Chandler  
 Member of Congress

  
 Rich Nugent  
 Member of Congress

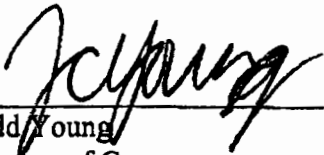
  
 Jeff Miller  
 Member of Congress



David Rivera  
Member of Congress



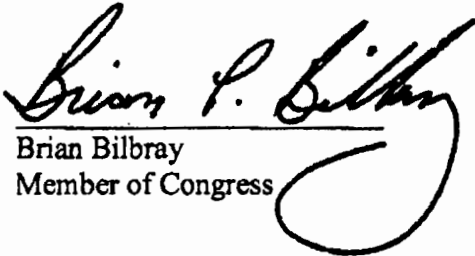
Ileana Ros-Lehtinen  
Member of Congress



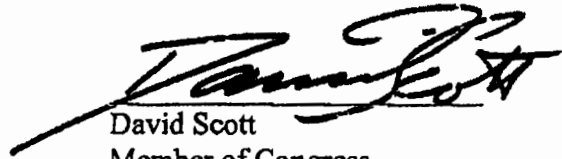
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David Schweikert  
Member of Congress



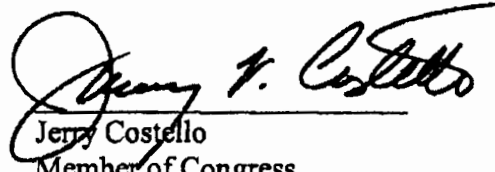
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David Scott  
Member of Congress



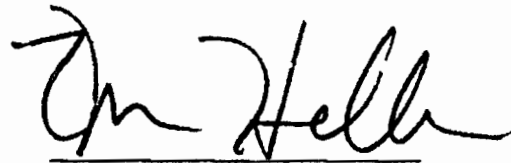
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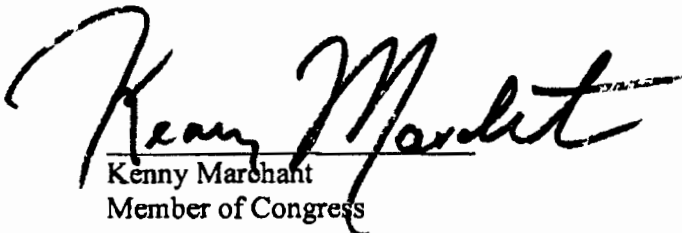
Jerry Costello  
Member of Congress



Marsha Blackburn  
Member of Congress



Dean Heller  
Member of Congress



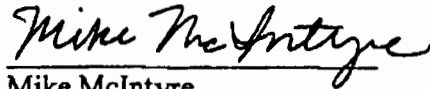
Kenny Marchant  
Member of Congress



Ken Calvert  
Member of Congress



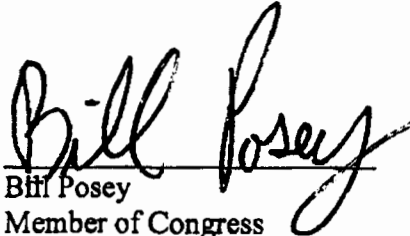
Joe Wilson  
Member of Congress




Mike McIntyre  
Member of Congress



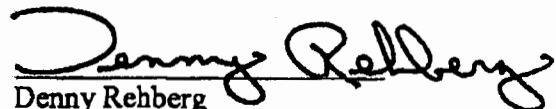
John Sullivan  
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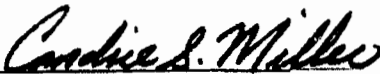
Bill Posey  
Member of Congress



Bill Flores  
Member of Congress



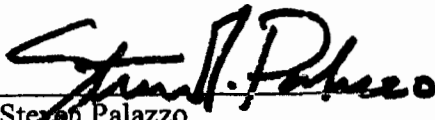
Denny Rehberg  
Member of Congress



Candice Miller  
Member of Congress



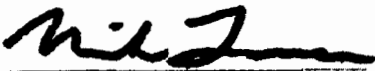
Erik Paulsen  
Member of Congress



Steven Palazzo  
Member of Congress




Bill Owens  
Member of Congress



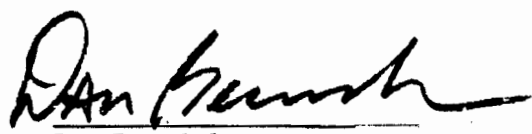
Michael Turner  
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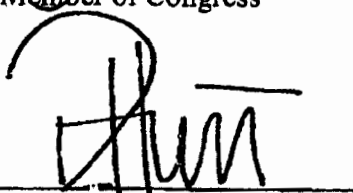


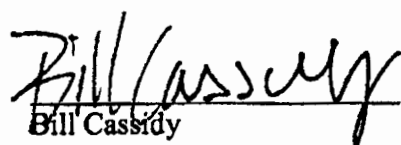
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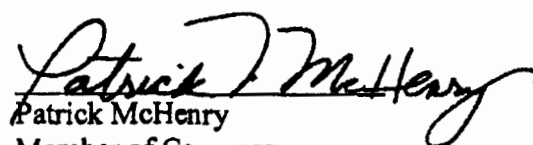
  
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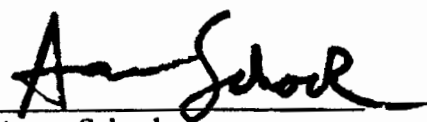
  
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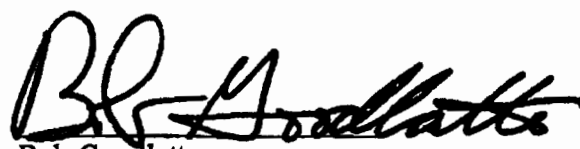
  
Dan Benishek  
Member of Congress


  
Robert Hurt  
Member of Congress


  
Bill Cassidy  
Member of Congress

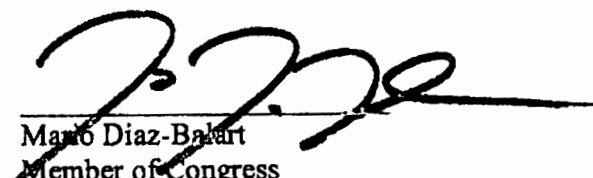
  
Patrick McHenry  
Member of Congress

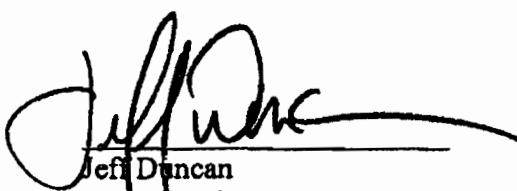
  
Aaron Schock  
Member of Congress

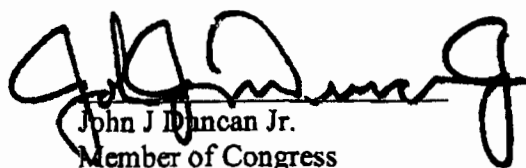
  
Bob Goodlatte  
Member of Congress

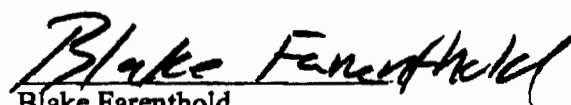
  
John Kline  
Member of Congress

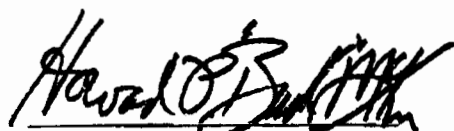
  
NY-29  
Tom Reed  
Member of Congress

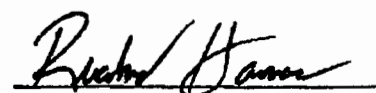
  
Mario Diaz-Balart  
Member of Congress

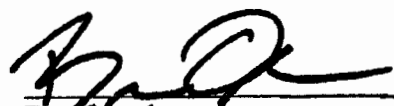
  
Jeff Duncan  
Member of Congress

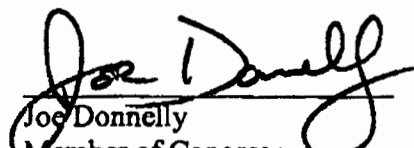
  
John J. Duncan Jr.  
Member of Congress

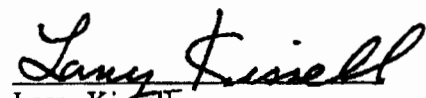
  
Blake Farenthold  
Member of Congress

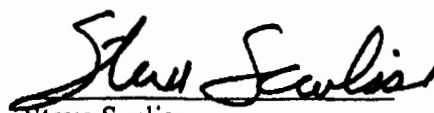
  
Buck McKeon  
Member of Congress

  
Richard Hanna  
Member of Congress

  
Ben Quayle  
Member of Congress

  
Joe Donnelly  
Member of Congress

  
Larry Kissell  
Member of Congress

  
Steve Scalise  
Member of Congress

CC:

Nancy Sutley, Chair, White House Council on Environmental Quality (CEQ)

Cass Sunstein, Administrator, Office of Information and Regulatory Affairs (OIRA), OMB



JUL 20 2011



The Honorable Phil Gingrey  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Gingrey:

Thank you for your letter of April 14, 2011, to the U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson and the U.S. Department of the Army Assistant Secretary (Civil Works) JoEllen Darcy regarding draft guidance clarifying the definition of "waters of the United States." I understand your interest in the significant issues associated with the geographic scope of the Clean Water Act (CWA), which are so central to the agencies' mission of assuring effective protection for human health and water quality for all Americans. We appreciate the opportunity to respond to your letter.

Recognizing the importance of clean water and healthy watersheds to our economy, environment, and communities, on April 27, 2011, EPA and the U.S. Army Corps of Engineers (Corps) released draft guidance that would update existing policies on where the CWA applies. We want to emphasize that this guidance was issued in draft and is not in effect. The agencies published the draft guidance in the *Federal Register* on May 2, 2011, and are requesting public comment until July 31, 2011. The guidance will not be made final until the after the comment period has closed and any revisions are made after careful consideration of all public input.

It is also important to clarify that the draft guidance would not change existing requirements of the law nor substantially increase the geographic scope of waters subject to protection under the CWA. The extent of waters covered by the Act remains significantly less than the scope protected under the law prior to Supreme Court decisions in *SWANCC* and *Rapanos*, and the agencies' guidance cannot change that. We believe that guidance will be helpful in providing needed improvements in the consistency, predictability, and clarity of procedures for conducting jurisdictional determinations, without changing current regulatory or statutory requirements, and consistent with the relevant decisions of the Supreme Court.

We share your interest in proceeding with an Administrative Procedure Act rulemaking as soon as possible to modify the agencies' regulatory definition of the term "waters of the United States" to reflect the Supreme Court decisions in *SWANCC* and *Rapanos*. Rulemaking assures an additional opportunity for the states, the public, and stakeholders to provide comments on the scope and meaning of this key regulatory term. EPA and the Corps hope to publish a Notice of Proposed Rulemaking on potential regulatory changes later this year.



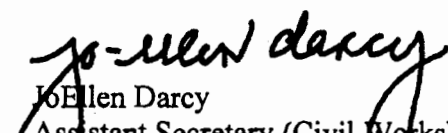
Clean water provides critical health, economic, and livability benefits to American communities. Since 1972, the CWA has kept billions of pounds of pollution out of American waters, and has doubled the number of waters that meet safety standards for swimming and fishing. Despite the dramatic progress in restoring the health of the Nation's waters, an estimated one-third of American waters still do not meet the swimmable and fishable goals of the Clean Water Act. Additionally, new pollution and development challenges threaten to erode our gains, and demand innovative and strong action in partnership with Federal agencies, states, and the public to ensure clean and healthy water for American families, businesses, and communities. EPA and the Corps look forward to working with the public, our federal and state partners, and Congress to protect public health and water quality, and promote the nation's energy and economic security.

We appreciate the opportunity to respond to your letter. We hope you will feel free to contact us if you have additional questions or concerns, or your staff may call Denis Borum in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-4836 or Chip Smith in the Office of the Assistant Secretary (Civil Works) at (703) 693-3655.

Sincerely,



Nancy K. Stoner  
Acting Assistant Administrator  
U.S. Environmental Protection Agency



JoEllen Darcy  
Assistant Secretary (Civil Works)  
U.S. Department of the Army

**Congress of the United States**  
**Washington, DC 20515**

May 24, 2006

Stephen L. Johnson, Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Federal Building  
Mail Code 1101 A  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-0001

Dear Mr. Johnson:

It has come to our attention that the Environmental Protection Agency is in its final review of proposed pesticide container and containment regulations. We raise serious concerns about the impact of this nationwide regulatory requirement on small businesses that serve the agricultural industry. Georgia agribusinesses have a strong stewardship track record and many take extra care in protecting the environment.

We know that it is important to you as administrator that EPA be fair and evenhanded in the development and implementation of regulations. Because of the diversity of agricultural production across the nation, we ask that the specific provisions be dropped from any final EPA rule and be utilized as recommendations for state regulatory authorities. The Georgia Department of Agriculture has the capability to manage this along with other related pesticide regulatory programs in our state. We believe that they should be allowed to continue offering containment recommendations, with EPA oversight and cooperation, or develop state specific pesticide container and containment regulations for state agricultural retailers and custom applicators.

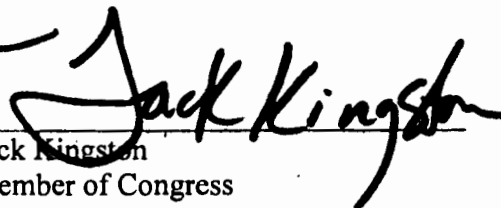
Reasonable solutions to this issue are possible by fostering cooperative efforts among the agricultural community, state department of agriculture and EPA. We all agree that agribusinesses need to apply sound stewardship practices and this can best be accomplished at the state level.

Thank you for your attention to this matter and we look forward to your response.

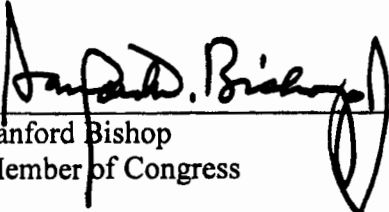
Respectfully,

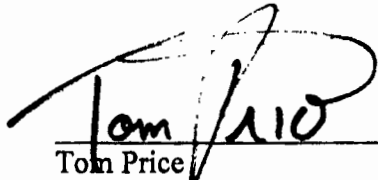


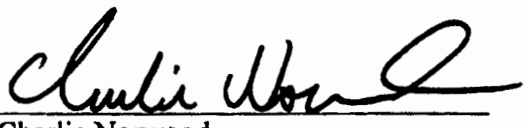
Lynn A. Westmoreland  
Member of Congress

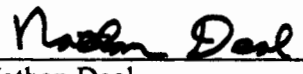


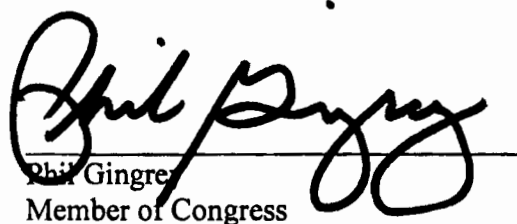
Jack Kingston  
Member of Congress

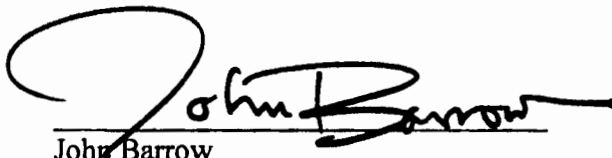
  
Sanford Bishop  
Member of Congress


  
Tom Price  
Member of Congress

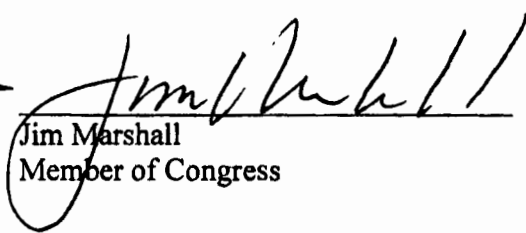
  
Charlie Norwood  
Member of Congress


  
Nathan Deal  
Member of Congress

  
Phil Gingrey  
Member of Congress

  
John Barrow  
Member of Congress

  
David Scott  
Member of Congress

  
Jim Marshall  
Member of Congress

  
John Linder  
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUN 22 2006

OFFICE OF  
PREVENTION, PESTICIDES AND  
TOXIC SUBSTANCES

The Honorable Phil Gingrey  
U.S. House of Representatives  
Washington, DC 20515

Dear Congressman Gingrey:

Thank you for your letter of May 24, 2006 to Administrator Stephen L. Johnson regarding the proposed container and containment regulations. Administrator Johnson asked that I respond to you on behalf of the U.S. Environmental Protection Agency (EPA) since my office is responsible for regulating pesticides.

We believe that federal containment standards, together with requirements for container design and residue removal, are essential for achieving the goal of ensuring the safe use, reuse and refill of pesticide containers. In fact, the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) mandates federal regulations that will promote the safe storage and disposal of pesticides and that prescribe procedures and standards for cleaning pesticide containers before disposal. We also recognize that we must be mindful of the impacts of regulations on small businesses.

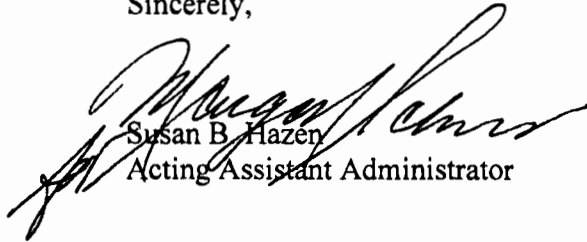
Based on the economic analysis of the container and containment rule, we believe that the regulations will not have a significant economic impact on small businesses. Our economic analysis exceeded what is required by law because we divided the universe of small businesses into three subcategories based on size and analyzed the impact on facilities of each size subcategory as well as on large businesses. We did this refined analysis so we could accurately characterize the impact of the rule on the smallest facilities, which could have been concealed otherwise. The Small Business Administration supported this approach because it ensured that impacts on the smallest entities would not be lost when totaling the potential impacts on all small businesses. In addition, we are developing small business compliance guides for both the container and containment parts of the rule to assist small businesses in determining whether they are subject to the rule and what they must do to comply.

We appreciate the perspective of members of Congress that cooperative efforts are needed among the agricultural community, State Departments of Agriculture and EPA to achieve sound stewardship at agribusinesses. In developing the container and containment standards, the Agency worked with State officials, USDA, members of the regulated community and the public. We recognize that Georgia's Department of Agriculture has the capability to manage a pesticide containment regulatory program. As proposed, the federal standards would provide

baseline standards that States, like Georgia, can use as a model for developing their own State regulations that address local conditions and practices, and which can certainly be more expansive than the federal standards.

Thank you for the opportunity to address your concerns. If I may be of further assistance, please let me know, or your staff may contact Ms. Loan Nguyen in the Office of Congressional and Intergovernmental Relations at 202-564-4041.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan B. Hazen", is written over the typed name and title.

Susan B. Hazen  
Acting Assistant Administrator

**Congress of the United States**  
Washington, DC 20515

September 27, 2010

The Honorable Lisa Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

Dear Administrator Jackson:

We write to convey our continued concerns regarding the U.S. Environmental Protection Agency's (EPA) latest actions in its review of the National Ambient Air Quality Standards (NAAQS) for particulate matter (PM). The Second Draft Policy Assessment (PA) for PM released on July 8, 2010 in the Federal Register lays the foundation for establishing the most stringent and unparalleled regulation of dust in our nation's history. We urge the EPA to refrain from going down this path.

Scientific studies are at best ambiguous in support of tightening the existing coarse PM standard. According to the PA, the science would justify leaving the standard as it is, in terms of public health. It is also critical to maintain the current standard for economic sustainability. A coarse PM NAAQS of 65-85  $\mu\text{g}/\text{m}^3$  would be approximately twice as stringent as the current standard and would require the designation of many more non-attainment areas than currently exist, particularly in rural areas. The current standards have been very difficult and expensive for industries in the Western part of the country to attain, including agricultural and other resource-based industries. The possibility of those same industries having to meet a standard that is twice as stringent causes us great concern, especially when a revision is not required by science.

In addition, contrary to EPA's assertion, a dust standard in the range of 65-85  $\mu\text{g}/\text{m}^3$  with a 98<sup>th</sup> percentile form is not equal to the current standard of 150  $\mu\text{g}/\text{m}^3$  with a 99<sup>th</sup> percentile form in arid rural areas of the United States. In fact, it appears that such a standard would target rural areas. Considering the Administration's claim that it is focusing on revitalizing rural America and rural economic development, a proposal such as this would have a significant negative impact on those very goals.

While we respect efforts for a clean and healthy environment, scientific studies do not support the need for revising the dust standard. We are hopeful that common sense will prevail and the EPA will refrain from causing extreme hardship to farmers, livestock producers, and other resource-based industries throughout rural America. Whether it is livestock kicking up dust, corn being combined, or a pickup driving down a gravel road, dust is a naturally-occurring event in rural areas. Common sense requires the EPA to acknowledge that the wind blows dust around in these areas, and that is a fact of life.

Sincerely,

Gynthia P. Lummis

Jack D. L...

Nichole Bachmann

W. Coe ...

Bill P...

Bob ...

Bill ...

Lynn Jenkins

Stephanie H...

Paul C. Brown

Mike ...

R. ...

Bill Shuster

Marsha Blackburn

B. Marshall

Ed H. Lutz

John Shadegg

John L. Lutz

Ann Gidd

Jim Lutz  
Steve Chaffetz

Joe Wilson

Carlson

Sue Myrick

Doug Lamborn

Joseph R. Pitts

J. M. Chis

Barth Mullins 124-2

Harry Teague

Steve King



Blair J. J. J.

Ting -

Bobby Bright

Mary Fullin

John Spran

Stanley E. Bessing

Jeff Fortensberg

Y. K. J. J.

Don Young

Lynn A. J. J.

John Kline

Betty Markay

Robert B. Adulask

John J.

Robert E. J. J.

J. Giffards

Joe Barton

Mr. J. J.

Walt Whit  
Adel.

John J. Duncanson  
Bob Goodrich

Jack Kingston  
Walter B. Jones

Leonard Bishop

John Emerson  
John IL-19

Kenneth Long

Jerry Moran

Ray Blunt

Ray Walden

Rich Simpson

Joe Terry

Mike McIntyre

Todd Thurst

Sam Cole

Don Paul

Adrian Smith

Randy Mum

Howard Coble

E. Whitfield

Jeff Hershey

John Eric

Wally Hergen

Mike Coffman

Rep. Cynthia M. Lummis  
Rep. Frank Lucas  
Rep. Michele Bachmann  
Rep. Todd Akin  
Rep. Phil Gingrey  
Rep. Rob Bishop  
Rep. Bill Posey  
Rep. Lynn Jenkins  
Rep. Stephanie Herseth Sandlin  
Rep. Paul C. Broun  
Rep. Mike Rogers (AL)  
Rep. Kevin Brady  
Rep. Bill Shuster  
Rep. Joe Wilson  
Rep. Marsha Blackburn  
Rep. Dan Boren  
Rep. Kenny Marchant  
Rep. Sue Myrick  
Rep. Adam Putnam  
Rep. Doug Lamborn  
Rep. John Shadegg  
Rep. Joseph R. Pitts  
Rep. John Carter  
Rep. Tom McClintock  
Rep. Aaron Schock  
Rep. Brett Guthrie  
Rep. Jim Jordan  
Rep. Harry Teague  
Rep. Jason Chaffetz  
Rep. Steve King  
Rep. Blaine Luetkemeyer  
Rep. Lynn A. Westmoreland  
Rep. Timothy V. Johnson  
Rep. John Kline  
Rep. Bobby Bright  
Rep. Betsy Markey  
Rep. Mary Fallin  
Rep. Robert Aderholt

Rep. John Spratt  
Rep. Sam Graves  
Rep. Leonard Boswell  
Rep. Robert E. Latta  
Rep. Jeff Fortenberry  
Rep. Gabrielle Giffords  
Rep. Ann Kirkpatrick  
Rep. Joe Barton  
Rep. Don Young  
Rep. Mac Thornberry  
Rep. Walt Minnick  
Rep. Michael Conaway  
Rep. Ike Skelton  
Rep. Jerry Moran  
Rep. John J. Duncan  
Rep. Roy Blunt  
Rep. Bob Goodlatte  
Rep. Gary Walden  
Rep. Jack Kingston  
Rep. Mike Simpson  
Rep. Walter B. Jones  
Rep. Lee Terry  
Rep. Sanford D. Bishop  
Rep. Mike McIntyre  
Rep. Jo Ann Emerson  
Rep. Todd Tiahrt  
Rep. John Shimkus  
Rep. Tom Cole  
Rep. Ron Paul  
Rep. Adrian Smith  
Rep. Randy Neugebauer  
Rep. Howard Coble  
Rep. Ed Whitfield  
Rep. Jeb Hensarling  
Rep. John Sullivan  
Rep. Wally Herger  
Rep. Mike Coffman



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

NOV 10 2010

OFFICE OF  
AIR AND RADIATION

The Honorable Phil Gingrey  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Gingrey:

Thank you for your letter of September 27, 2010, cosigned by 74 of your colleagues, expressing concern over the ongoing review of the National Ambient Air Quality Standards (NAAQS) for particulate matter (PM). The Administrator asked that I respond to your letter.

We appreciate the importance of NAAQS decisions to western portions of the country as well as to rural and agricultural communities, and I respect your perspectives and opinions. NAAQS are set to protect public health from outdoor air pollution, and are not focused on any specific category of sources or on any particular activity (including activities related to agriculture). The NAAQS are based on consideration of the scientific evidence and technical information regarding the health and welfare effects of the pollutants for which they are set.

We are early in the process and far from making any decisions on whether the PM standards should be changed. The next step is consideration of public comments and advice from the Clean Air Scientific Advisory Committee on a draft Policy Assessment (PA) prepared by staff at the U.S. Environmental Protection Agency (EPA). The PA is not a decision document; it will be used with other information to inform the Administrator so she is able to determine whether, and if so how, to propose a revision of the NAAQS. There is a significant amount of work to be done, and a formal proposal and call for further public review and comments would not be issued until early 2011. Before any rule would be proposed, EPA would reach out to agricultural and rural interests to learn their concerns and perspectives. Following consideration of public comments on a proposal, the Administrator would issue a notice of final rulemaking later in 2011.

I want to note a correction with regard to your statement that "a coarse PM NAAQS of 65-85 ug/m<sup>3</sup> would be approximately twice as stringent as the current standard." This is incorrect. According to EPA's draft PA, it would be appropriate to consider this range of alternative PM<sub>10</sub> numerical levels only in conjunction with a significant change in the method used to calculate whether an area attains the standard. Such a change in the calculation could provide more flexibility than the current standard and greater year-to-year stability for the states.

We remain committed to common sense approaches to improving air quality across the country without placing undue burden on agricultural and rural communities. We will continue discussing these options with the Agency's science advisors and the public. This is all part of the open and transparent rulemaking process that provides Americans with many opportunities to offer their comments and thoughts. Your comments and those of your colleagues will be fully considered as we proceed with our deliberations.

Again, I thank you for your letter. If you have further questions, please contact me or your staff may contact Josh Lewis in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-2095.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina McCarthy", with a large, sweeping flourish at the end.

Gina McCarthy  
Assistant Administrator

**Congress of the United States**  
**Washington, DC 20515**

July 27, 2011

The Honorable Lisa Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave. NW  
Washington, DC 20460

Dear Administrator Jackson,

We are writing you to express our concerns with the implementation of the Oil Spill Prevention, Control and Countermeasure (SPCC) rule for farmers and ranchers.

As you know, the SPCC regulations would apply to any facility with an above-ground oil storage capacity of at least 1,320 gallons in containers holding more than 55 gallons. We are concerned with current circumstances that we feel are not conducive to effective compliance, or achieving the goal of SPCC regulations.

In order to comply with these guidelines, many farmers and ranchers will need to undertake expensive improvements in infrastructure and must hire engineers to meet specific criteria. At this time, most agriculture producers are hard-pressed to procure the services of Professional Engineers (PEs). Many producers have reported that they are unable to find PEs willing to work on farms. Additionally, some states do not have a single qualified PE registered to provide SPCC consultation. The scarce availability of engineers calls into question the viability of achieving the goal of full compliance by November 2011.

As you have travelled to farms and rural communities in the Mid-south and Midwest, you have seen first-hand the hardship facing farmers due to the devastation wrought by floods and severe weather. Farmers and ranchers are dealing with crop losses to the tune of billions of dollars and have been working around-the-clock to clean up the damage and preserve what little crops they have left. At this time, it is simply not within the means of many farmers to deal with losses while allocating time and money towards complying with SPCC regulations.

Recently, the EPA and the U.S. Army Corps of Engineers released draft guidance that drastically expands the agencies' authority in terms of the waters and wetlands considered "adjacent" to jurisdictional "waters of the United States" under the Clean Water Act. Many farmers and ranchers are worried that this guidance will force compliance with the SPCC, without the necessary time to do so. We believe that producers want to be in compliance, but the delay of assistance documentation has severely constrained their ability to make the necessary preparations.

In addition, the EPA has yet to provide clarification regarding who is responsible for maintaining the plan, as many farms are operated by those who do not own the land. Many farmers and ranchers are also unsure of how the EPA will enforce the rule.

Before moving forward, we ask that you ensure a process free of confusion and overly burdensome rules that might disincentivize SPCC compliance. By nature of occupation, family farmers are already careful stewards of land and water. No one has more at stake than those who work on the ground from which they derive their livelihood. We respectfully request that you reconsider the SPCC implementation deadline, continue to dialogue with the agriculture community and its stakeholders, and ensure that the rule is not overly burdensome or confusing. We believe this would help avoid unintended consequences. We appreciate your attention to this important matter.

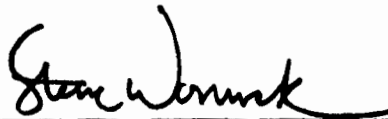
Sincerely,



Rick Crawford  
Member of Congress



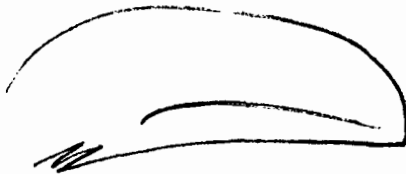
Stephen Fincher  
Member of Congress



Steve Womack  
Member of Congress



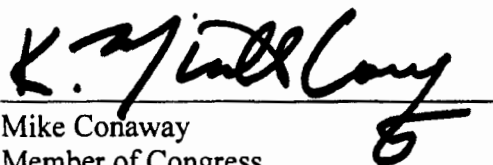
John Carter  
Member of Congress



Scott DesJarlais  
Member of Congress



Steven Palazzo  
Member of Congress

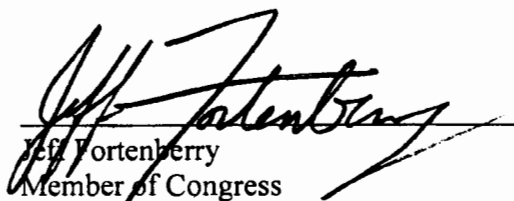


Mike Conaway  
Member of Congress

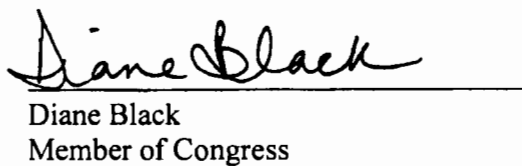


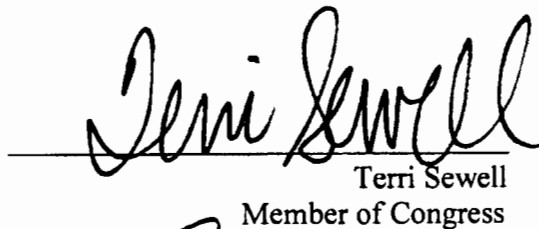
Brett Guthrie  
Member of Congress

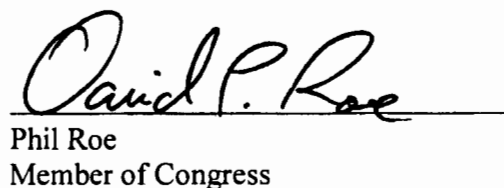


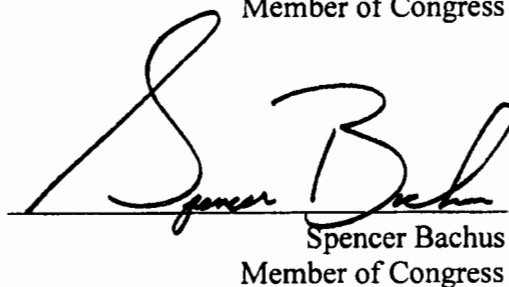
  
Jeff Fortenberry  
Member of Congress

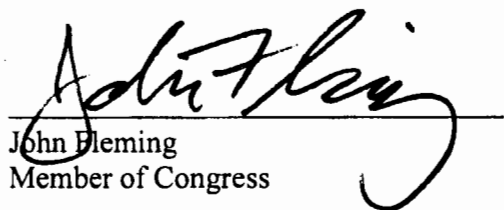
  
Walter Jones  
Member of Congress

  
Diane Black  
Member of Congress

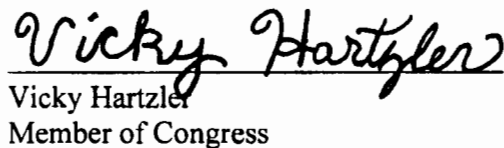
  
Terri Sewell  
Member of Congress

  
Phil Roe  
Member of Congress

  
Spencer Bachus  
Member of Congress

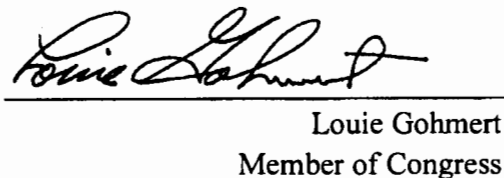
  
John Fleming  
Member of Congress

  
Marsha Blackburn  
Member of Congress

  
Vicky Hartzler  
Member of Congress

  
Cory Gardner  
Member of Congress

  
Steve King  
Member of Congress

  
Louie Gohmert  
Member of Congress



Additionally, during development of the SPCC amendments EPA and the U.S. Department of Agriculture (USDA) gathered information that indicated that approximately 95 percent of farms covered by the SPCC requirements are likely to qualify to self-certify their Plan—that is, no PE certification. Farmers that require the use of a PE and have difficulty finding one before the compliance date may contact the EPA Regional Administrator for the region in which they are located and request a time extension to amend and prepare an SPCC Plan.

EPA understands the issues raised by the farm community and is currently evaluating the best approach to resolve the identified issues. We are working hard to explore viable options for addressing the concerns you have raised. At a minimum, as noted above, those farmers who cannot meet the November 10, 2011, compliance date may request an extension as provided for specifically under 40 CFR 112.3 (f), which states:

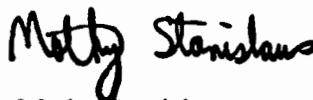
*“ Extension of time: The Regional Administrator may authorize an extension of time for the preparation and full implementation of a Plan, or any amendment of a Plan thereto, beyond the time permitted for the preparation, implementation, or amendment of a Plan under this part, when he finds that the owner or operator of a facility subject to the section, cannot fully comply with the requirements as a result of either nonavailability of qualified personnel, or delays in construction or equipment delivery beyond the control and without the fault of such owner or operator or his agents or employees....”*

Among the options we are exploring is an appropriate and expeditious process by which such an extension could be of value in addressing the legitimate concerns raised on behalf of agricultural producers.

The Frequent Questions on the EPA's SPCC for Agriculture webpage reflect this information to ensure that farmers are aware that an extension is possible and to describe the process to request such an extension. The address for that website is [http://www.epa.gov/emergencies/content/spcc/spcc\\_ag.htm](http://www.epa.gov/emergencies/content/spcc/spcc_ag.htm). We will continue to explore opportunities that would trigger approval of such exemption requests and will investigate mechanisms to help farmers request an extension.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Raquel Snyder, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-9586. We also welcome your suggestions for additional outreach and compliance assistance approaches.

Sincerely,



Mathy Stanislaus  
Assistant Administrator

**Congress of the United States**  
**Washington, DC 20515**

September 22, 2011

The Honorable Lisa P. Jackson  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, D.C. 20004

Dear Administrator Jackson:

As Members of Congress, who are medical professionals, we strongly believe that public health claims should be credible. Unfortunately, when we examine the suite of proposed rules for the power sector, we believe that the Environmental Protection Agency (EPA) has failed to state accurately the case for health benefits. The EPA has made dubious claims with respect to the benefits of the newly-proposed rule, Utility MACT. This rule is meant to regulate hazardous air pollutants (HAPs) by using "Maximum Achievable Control Technology."

**I. Public Health Claims Associated With EPA's Utility MACT Are Dubious**

EPA, as a federal agency, is required to perform a regulatory impact assessment with cost-benefit findings of any proposed major regulatory action. With respect to the Utility MACT rule, EPA claims that, "significant annual health benefits will far outweigh any costs associated with implementation."<sup>1</sup> Unfortunately, EPA's benefits appear to be based on limited quantitative and qualitative analysis. Overwhelmingly, the majority of EPA's estimated health benefits are attributable to co-benefits from reductions in fine particulate matter. Our strong concern is that EPA has been "double counting" particulate health benefits – taking credit for them in the context of this proposed utility rule when it well knows that past rulemakings already address these concerns. Under the Clean Air Act, particulate reductions have already been realized over the past decade. Over the past 11 years, the utility industry has actually increased power generation by 40% while emissions have decreased by 70%. With respect to mercury, the EPA has acknowledged that actual benefits may be as little as \$500,000 in comparison to a \$10 billion price tag, per the rule. In fact, the 407 coal-fired power plants in the U.S. contribute less than 1% of atmospheric mercury emissions, worldwide.<sup>2</sup>

**II. The Proposed Utility MACT May Present an Actual Threat to Public Health**

Contrary to its purpose, the proposed Utility MACT rule may actually present profound challenges to public health. First, it will drive up the cost of medical services. Second, it will

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<sup>1</sup> United States Environmental Protection Agency, (2011) "Regulatory Impact Analysis of the Proposed Toxics Rule: Final Report," Washington, D.C., 1-2.

<sup>2</sup> Brownell, William. (2011) "Mercury Regulation: Fact or Fiction." *The Environmental Forum* 46.

make Americans less healthy. And lastly, by redirecting scarce societal resources to dubious programs.

#### **A. Electricity Price Increases Escalate Health Care Costs**

Hospital administrators have no choice but to pay attention to the cost of energy. U.S. healthcare facilities consume four percent of the total energy consumed in the U.S. spending, on average, \$8.5 billion annually on energy, often equaling between one and three percent of a hospital's operating budget.<sup>3</sup> Additionally, EPA estimates, in the U.S., the health sector is the second most energy-intensive commercial sector resulting in more than \$600 million per year in direct health costs and over \$5 billion in indirect costs.<sup>4</sup> Under the EPA's proposed rules, electricity costs in some regions may increase over 20 percent as soon as 2016. The surging cost of energy will squeeze tight hospital budgets making access to affordable healthcare all the more difficult.

#### **B. Adverse Employment and Economic Impacts Increase Mortality**

Coal-based electricity generation provides significant stimulus to the U.S. economy with consequent health implications related to employment status. Over the next five years, coal-fueled electric generation will contribute \$1.05 trillion in gross economic output and \$362 billion in annual household incomes.<sup>5</sup> By contrast, due to EPA-forced coal unit retirements, the U.S. can expect a reduction in net employment of 1.4 million job-years by 2020.<sup>6</sup> A report by Dr. Harvey Brenner shows that additional unemployment may significantly harm public health. Brenner found that a one percent increase in the unemployment rate was associated with a two percent increase in premature deaths.<sup>7</sup> In 2004, Brenner used his econometric models to estimate that a substantial reduction in coal-fired power would result in between 170,000 and 300,000 premature deaths.<sup>8</sup> Placing unnecessary economic constraints on the U.S. economy, in a time of recession, is unwise and detrimental to sound public health policy.

#### **C. Lack of Cost-Effective Rules Misallocate Scarce Public Health Resources**

Placing EPA regulations in a broader public health perspective, it is clear that the proposed Utility MACT standard is not among the most cost-effective societal investment for addressing premature mortality. As physicians, we know that failure to allocate societal resources based on cost-effectiveness, quite literally, costs lives. Experts at the Harvard School for Public Health have estimated that expensive environmental rules literally save 100 times fewer lives than when

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<sup>3</sup> United States Department of Energy. (2006) Energy Information Administration (EIA). Commercial Buildings Energy Consumption Survey (CBECS): Consumption and Expenditures Tables. "Table C3A".

<sup>4</sup> The World Health Organization. Healthy Hospitals, Healthy Planet, Healthy People: Addressing Climate Change in Healthcare Settings. Washington, DC. 29.

<sup>5</sup> Rose, A. and Wei, D.. (2006). "The Economic Impacts of Coal Utilization and Displacement in the Continental United States, 2015." Report to the Center for Energy and Economic Development, Inc.

<sup>6</sup> Proposed CATR + MACT. Publication. Washington, D.C.: NERA Economic Consulting. 2011.

<sup>7</sup> United States. Cong. House. Joint Economic Committee. (1976). Estimating the Social Costs of National Economic Policy: Implications for Mental and Physical Health, and Criminal Aggression. By Harvey Brenner. 94th Cong., 2nd sess. H. Rept. 5th ed. Vol. 1., Washington, D.C.

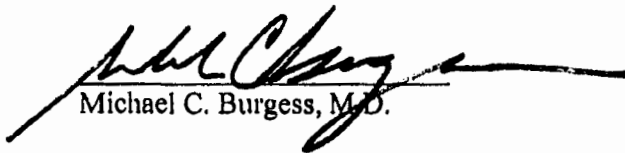
<sup>8</sup> Ibid.

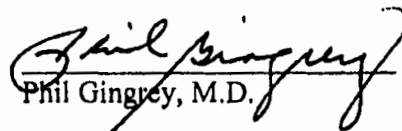
the federal government redeployed those assets addressing higher risks.<sup>9</sup> This tremendous differential in health impacts explains why EPA should not be so cavalier in its benefits analysis.

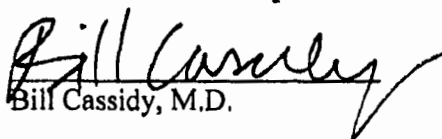
### III. Conclusion

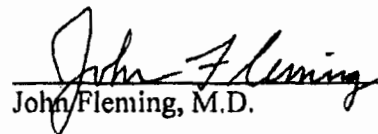
It is well established that additional costs placed upon the healthcare and economic sectors of our country may actually damage public health and raise premature death rates. Given the extremely high cost of the Utility MACT proposal – perhaps the most expensive in the Agency's history – we ask that the EPA take into account the direct and indirect costs associated with the proposed rule and withdraw the rule until we can be assured of its positive contribution to public health. The American public deserves no less.

Sincerely,

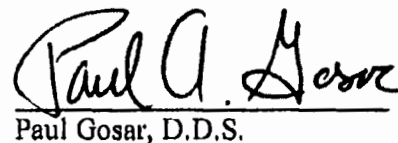
  
Michael C. Burgess, M.D.

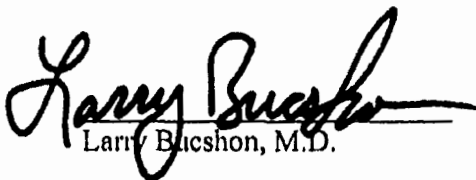
  
Phil Gingrey, M.D.

  
Bill Cassidy, M.D.

  
John Fleming, M.D.

  
Paul Broun, M.D.

  
Paul Gosar, D.D.S.

  
Larry Bucshon, M.D.

<sup>9</sup> Tengs, T.O., et al. (1995) Five Hundred Life-Saving Interventions and Their Cost Effectiveness, Risk Analysis 15, 3, 369-90.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

NOV 22 2011

OFFICE OF  
AIR AND RADIATION

The Honorable Phil Ginrey  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Ginrey:

Thank you for your letter of September 22, 2011, co-signed by six of your colleagues, addressed to Administrator Lisa Jackson, in which you expressed concern over the public health benefit and cost estimates in the Regulatory Impact Analysis (RIA) of the proposed "National Emission Standards for Hazardous Air Pollutants from Coal-and-Oil-fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units" (the proposed Mercury and Air Toxics Standards rule (MATS)). The Administrator asked that I respond on her behalf.

Respectfully, I must disagree with the assertions in your letter. This proposed rule would set the first national standards to reduce toxic air pollution, including emissions of mercury and other toxic pollutants, from power plants. The health of our citizens will benefit from the controls that power plants will install to meet the standards. Those controls will reduce emissions of many pollutants, including air toxics and emissions that cause fine particle pollution. Meeting the proposed standards will save thousands of lives and prevent tens of thousands of asthma and heart attacks. These standards are both reasonable and achievable, and many sources already are meeting them. Our analysis shows that the benefits of the rule are significant – providing \$5 - \$13 in benefits for every dollar in cost.

We are confident that reducing mercury and other toxic air emissions from power plants will provide real benefits to the American people. An independent scientific advisory panel recently reviewed the EPA's national-scale mercury risk analysis, which supports MATS. The analysis examines the potential health risks associated with mercury emissions from power plants, which account for the largest source of mercury in the United States. The peer reviewers – a diverse mix of 22 experts from industry, states, and academia – confirmed that the risk analysis is scientifically credible. The reviewers noted that EPA used an objective and reasonable approach.

Nationally, power plants are the largest remaining emitters of mercury and are responsible for 60 percent of the arsenic, 20 percent of the chromium, 30 percent of the nickel, more than 50 percent of many acid gases (such as hydrogen chloride and hydrogen fluoride), and 80 percent of the selenium emitted in the U.S. Studies show that air toxics, including those mentioned above, can cause cancer and/or other adverse health or environmental effects.

- Mercury causes neurological damage, including lost IQ points, in children who are exposed before birth and can impact children's cognitive thinking, memory, attention, language and fine motor and visual spatial skills.
- Metals such as arsenic, chromium, and nickel cause cancer and other health risks.
- Acid gases cause lung damage and contribute to asthma, bronchitis and other chronic respiratory disease, especially in children and the elderly.

Power plants emit these and dozens of other pollutants that Congress listed as hazardous in 1990. Reducing these toxics will benefit millions of Americans by reducing the risk of these serious effects. Some of these benefits we can quantify; others we cannot. Yet the science shows they are all real threats.

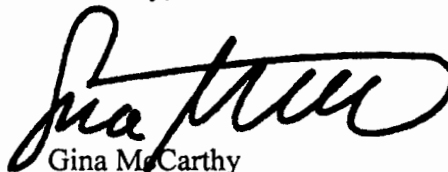
Further, Executive Order 12866 directs agencies to consider "all costs and benefits" including benefits that are "difficult to quantify, but nevertheless essential to consider." Within that framework, we have a responsibility to examine how reducing mercury and other air toxics under the proposed rule may also reduce other health-threatening pollution. We also have a responsibility to estimate the costs of compliance with the proposed standards, which we presented fully in the draft RIA.

The EPA's standard practice for doing benefit analysis is to estimate, to the extent data and time allow, only the benefits of the emissions reductions we expect a rule will achieve beyond control requirements for other rules. The benefits from particle reductions are not double counting – they are health benefits from emissions reductions projected to be achieved by MATS alone. When the EPA estimates the benefits for rules like MATS, the agency includes other rules in the "baseline." This assures that we do not double-count any of the emissions, benefits, or costs that should be attributable to another rule. This was true under past administrations as well.

The proposed rule and the draft RIA were available for a lengthy public review and comment period beginning in March 2011 and ending in August. At this time, the agency continues to review the numerous comments received and prepare a comprehensive Response to Comments document that will be released when Administrator Jackson signs the final MATS regulations.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Diann Frantz in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3668.

Sincerely,

A handwritten signature in black ink, appearing to read "Gina McCarthy", with a stylized, flowing script.

Gina McCarthy  
Assistant Administrator

HENRY A. WAXMAN, CALIFORNIA  
CHAIRMAN

JOHN D. DINGELL, MICHIGAN  
CHAIRMAN EMERITUS  
EDWARD J. MARKEY, MASSACHUSETTS  
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BART GORDON, TENNESSEE  
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ANNA G. ESHOO, CALIFORNIA  
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TAMMY BALDWIN, WISCONSIN  
MIKE ROSS, ARKANSAS  
ANTHONY D. WEINER, NEW YORK  
JIM MATHESON, UTAH  
G.K. BUTTERFIELD, NORTH CAROLINA  
CHARLIE MELANCON, LOUISIANA  
JOHN BARROW, GEORGIA  
BARON P. HILL, INDIANA  
DORIS O. MATSUI, CALIFORNIA  
DONNA CHRISTENSEN, VIRGIN ISLANDS  
KATHY CASTOR, FLORIDA  
JOHN SARBANES, MARYLAND  
CHRISTOPHER MURPHY, CONNECTICUT  
ZACHARY T. SPACE, OHIO  
JERRY MCNERNEY, CALIFORNIA  
BETTY SUTTON, OHIO  
BRUCE BRALEY, IOWA  
PETER WELCH, VERMONT

ONE HUNDRED ELEVENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6115

MAJORITY (202) 225-2927  
FACSIMILE (202) 225-2525  
MINORITY (202) 225-3641

energycommerce.house.gov

July 16, 2009

JOE BARTON, TEXAS  
RANKING MEMBER

ROY BLUNT, MISSOURI  
DEPUTY RANKING MEMBER  
RALPH M. HALL, TEXAS  
FRED LUPTON, MICHIGAN  
CLIFF STEARNS, FLORIDA  
NATHAN DEAL, GEORGIA  
ED WHITFIELD, KENTUCKY  
JOHN SHIMKUS, ILLINOIS  
JOHN B. SHADEGG, ARIZONA  
STEVE BUYER, INDIANA  
GEORGE RADANOVICH, CALIFORNIA  
JOSEPH R. PITTS, PENNSYLVANIA  
MARY BONO MACK, CALIFORNIA  
GREG WALDEN, OREGON  
LEE TERRY, NEBRASKA  
MIKE ROGERS, MICHIGAN  
SUE WILKINS MYRICK, NORTH CAROLINA  
JOHN SULLIVAN, OKLAHOMA  
TIM MURPHY, PENNSYLVANIA  
MICHAEL C. BURGESS, TEXAS  
MARSHA BLACKBURN, TENNESSEE  
PHIL GINGREY, GEORGIA  
STEVE SCALISE, LOUISIANA

The Honorable Lisa Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator Jackson:

We write to follow up on Ranking Member Barton's June 24 letter to you (attached) to request additional information and documents relating to the facts and circumstances surrounding the preparation of the Environmental Protection Agency (EPA) proposed endangerment finding.

Questions about the process and treatment of critical opinion and debate within EPA have only increased since we wrote three weeks ago. Since that time, you or EPA spokesmen have issued statements at once minimizing the critical comments by a senior career employee, Dr. Alan Carlin, on the quality of the agency's basis for the proposed endangerment finding, and ignoring the substantive questions about the integrity of the EPA process raised by the alleged suppression of Dr. Carlin's report.

An EPA spokesperson said in response to press inquiries about emails indicating document suppression: "The individual in question [Dr. Carlin] is not a scientist and was not part of the working group dealing with this issue." This statement stands in conflict with the plain fact that Dr. Carlin is listed as an author and contributor to the EPA's Technical Support Document (TSD) prepared in support of the proposed endangerment finding, raising questions about the actual authorship and review process of this key document. In light of the apparent expedited pace with which this TSD was internally reviewed during your tenure, we also question whether listed authors, if they did contribute, had sufficient opportunity to evaluate and document whether the TSD represented a full, up-to-date examination of scientific evidence and uncertainties surrounding climate change.



In another instance, you testified during a July 7, 2009 Senate Environment and Public Works Committee hearing that you personally directed staff to inform Dr. Carlin that he could share his views widely, but you made no comments relating to the email evidence that Dr. Carlin was instructed not to discuss endangerment outside his immediate office, that he was to spend no more agency time on climate change or endangerment issues, and that his supervisor feared negative consequences for his office. These comments, therefore, left unaddressed our serious concerns about potential retaliation for dissenting views and the atmosphere for open debate, as well as the integrity of "scientific decision-making" at the agency for the proposed endangerment finding.

Your July 10 letter response and subsequent telephone conversation with Ranking Member Barton about that response did not mitigate our concerns about agency process and atmosphere. At this point, we cannot accept as plausible your contention that neither you nor your staff nor direct reports supplied or authorized timelines or other directives for collecting internal comments and for preparing the proposed endangerment finding, which was apparently sought by the Administration.

Furthermore, your letter was not fully responsive to the information and documents requested in our initial letter. Given the incomplete responses from EPA on this matter to date, we seek additional clarification to ensure Congress has the full and complete facts surrounding this matter. Accordingly, we write to seek additional information and documents pursuant to the inquiry sent on June 24, 2009. Please respond within two weeks of the date of this letter to the following:

1. Was Dr. Alan Carlin's work commenting on the Technical Support Document (TSD) dated March 2009 prepared as part of his official EPA duties?
2. Was the set of comments prepared during March 2009 by Dr. Carlin concerning the March 2009 draft of the TSD forwarded to EPA staff outside the National Center of Environmental Economics (NCEE)?
  - a. If so, please identify by name and office all EPA staff who received the document and explain how EPA staff outside NCEE came into possession of a document his supervisor said he would not forward to the program office responsible for preparing the proposed endangerment finding?
  - b. Please provide all documents, including, but not limited to, emails, calendar records, and meeting notes, relating to (1) Dr. Carlin's written comments on the draft(s) of the TSD, (2) his expressed views about climate change, and (3) his analysis or comments about the EPA process for developing an endangerment proposal.
3. Why was Dr. Carlin directed not to work any longer on climate change on March 17, 2009? (See email, attached). Do you support this directive? If not, when was Dr. Carlin allowed to work on climate change again?

4. Concerning the March 12, 2009, email from Dr. Al McGartland to Dr. Carlin and Dr. John Davidson: (1) explain the "tight schedule and the turn of events" and (2) explain why these two individuals were not to have "any direct communication with anyone outside of NCEE on endangerment," including "no meetings, emails, written statements, phone calls etc." (see attachment).
  - a. Were similar directives applied to others identified as authors and contributors to the TSD? If so, which person(s) originated these directives and when and how were they issued?
  - b. Have you, your staff, or EPA management restricted communication by any other career staff, particularly senior career professional staff, on the topic of climate change or any other science policy matter? If no, did this directive reflect your policies? Are you in agreement with this directive?
  - c. Please provide all documents, including, but not limited to, emails, calendar records, and meeting notes, relating to the decision to direct Dr. Carlin or Dr. Davidson not to communicate with anyone outside of NCEE on endangerment, including any directives or memoranda relating to your guidance on staff communication and/or on ensuring the scientific integrity and transparency at the EPA.
  - d. Have you had any concerns about unauthorized disclosures of information? Did those concerns ever involve NCEE?
5. In your July 10, 2009, telephone conversation with Ranking Member Barton, you stated that Al McGartland was "counseled" about his actions or emails regarding Dr. Carlin. Please explain how and when he was counseled, who counseled him, what specifically he was counseled about, and who ultimately directed that he be counseled. What was the basis for the counseling? Did EPA conduct an internal investigation of Dr. McGartland's conduct? If so, what was the allegation, and what did EPA find?
6. Please identify and provide documentation for the specific events you referenced in your July 7 Senate testimony that formed the basis for your statements regarding Dr. Carlin's attendance at or participation in conferences, and identify which specific events occurred during prior administrations and which specific events, if any, occurred during the Obama Administration.
  - a. Please provide records of travel requests since January 1, 2004 sought by and granted or not granted to Dr. Carlin for attendance at conferences or speaking engagements on the topic of climate change.
7. Please provide the date(s) and list of attendees for each of the EPA brown bag lunches related to climate change science, policy, or economics, referred to in your July 7 Senate testimony, in which Dr. Carlin participated.

8. According to a June 29, 2009, press interview with Dr. Carlin by FOXnews.com, Dr. Carlin says his supervisor, Dr. Al McGartland, was pressured to take Dr. Carlin off of climate research when he attempted to submit his TSD comments. Please identify the person(s) who instructed Dr. McGartland to remove Dr. Carlin from climate research, and the basis for their instruction. If EPA does not have this information, please explain why and how Dr. McGartland could be counseled without all pertinent facts.
9. Please describe the purpose, role and functions of the Office of Policy, Economics, and Innovation (OPEI), including the NCEE, within your headquarters operation.
10. Please describe any ongoing efforts to evaluate the role of OPEI, the NCEE, or its other component offices and what your plans are for this office or any of its components, including plans for staffing increases (or decreases), for changes to staff expertise, for changes to its function or role within the Agency Action Development Plan process or rulemaking process or other advisory or support function.
  - a. Please provide any evaluations of OPEI or its components you or your staff have requested to be conducted.
11. Please describe the EPA resources that have been and are planned to be devoted to the OPEI, including detailed budget information, broken out by center and function, the number of EPA employee positions (FTEs) assigned to work in these offices and their roles, the availability of contract funding support, performance goals, and measures for these specific office functions. Please provide this information for each of the years FY2008, FY2009 and FY2010.
12. Please describe the development of the TSD, including its initial development during the Bush Administration, and how the draft that circulated for review in March 2009 differed from the draft prepared in the Bush Administration? How was it updated?
13. Please identify the office and branch and individual(s) in charge of developing the draft TSD initially and the TSD draft that circulated in March of this year. Please also identify who in your office was responsible for advising you on and monitoring the draft TSD and its development.
14. Please explain why the EPA identifies Dr. Carlin as an EPA author and contributor to the April 17, 2009, TSD. What specifically was his contribution, when did he make that contribution, and what was the interaction between Dr. Carlin and EPA staff preparing the April TSD about his contribution, if any?
15. What was the schedule for EPA's internal review of the TSD prior to submitting the proposed endangerment finding to the Office of Management and Budget for review?
  - a. Who set the deadline for submission to OMB for review?

- b. Did you or your staff attend or participate in any internal workgroup meetings or conference calls relating to the development of the TSD? If so, please identify who attended or participated, when, and why.
  - c. Please provide all documents relating to the schedule for preparation of the TSD, including but not limited documents reflecting the schedules and timetables for the drafting of the TSD and obtaining comments from EPA agency staff, calendars and attendance records for TSD workgroup meetings and conference calls, as well as all internal guidance and directives for preparing the TSD.
  - d. Why were offices, including the OPEI, outside of the Office of Air and Radiation given only about one week to comment on the TSD?
  - e. Please list the last 10 proposed rulemakings for which OPEI or its component offices were asked to comment, and identify how much time was provided to OPEI and NCEE for comment on each of these rulemakings.
16. Please explain the specific role and contributions of Stratus Consulting, the reported contractor that assisted EPA staff with preparation of the TSD.
- a. Please provide all documents related to the work performed by contractor(s) that assisted EPA staff in the preparation for the TSD issued in April 2009, including scoping documents, contracts, and drafts and comments, and any editorial contribution made by the contractor(s).
  - b. Please provide all documents related to the work to be performed by contractor(s) that are and/or will be assisting EPA staff responding to comments on the proposed endangerment finding and/or TSD, including scoping documents, and contracts.
17. Please explain the specific contributions of other EPA staff listed as "authors and contributors" to the TSD and explain how their contributions and evaluations were documented.
18. Please explain (1) the process for choosing, (2) the specific role, and (3) contributions and date of contributions of the Federal expert reviewers listed in the April 17, 2009 TSD.
- a. Please provide all comments and contributions by these reviewers, and related responses from EPA staff authors.
19. During the July 10 telephone call with Ranking Member Barton, you participated in the call via a speaker phone. If others were in your office during this call, please list their names and affiliations and provide any notes taken of the phone conversation and when you muted the phone.

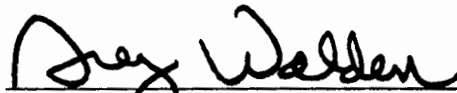
20. If the EPA withholds any documents or information in response to this letter, please provide a Vaughn Index or log of the withheld items. The index should list the applicable question number, a description of the withheld item (including date of the item), the nature of the privilege or legal basis for the withholding, and a legal citation for the withholding claim.

Please provide the written responses and documents requested by no later than two weeks from the date of this letter. Should you have any questions, please contact Mr. Peter Spencer of the Minority Committee staff at (202) 225-3641.

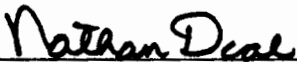
Sincerely,



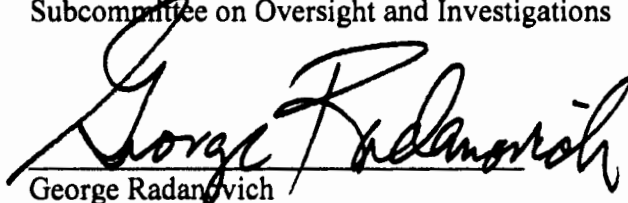
Joe Barton  
Ranking Member



Greg Walden  
Ranking Member  
Subcommittee on Oversight and Investigations



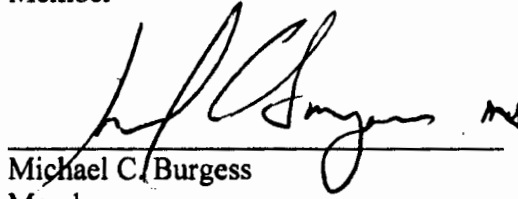
Nathan Deal  
Member



George Radanovich  
Member



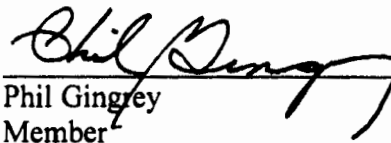
John Sullivan  
Member



Michael C. Burgess  
Member



Marsha Blackburn  
Member



Phil Gingrey  
Member

cc: The Honorable Henry A. Waxman  
Chairman

The Honorable Bart Stupak  
Chairman  
Subcommittee on Oversight and Investigations

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PETER WELCH, VERMONT

ONE HUNDRED ELEVENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6115

MAJORITY (202) 225-2927  
FACSIMILE (202) 225-2525  
MINORITY (202) 225-3641

energycommerce.house.gov

June 24, 2009

JOE BARTON, TEXAS  
RANKING MEMBER

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MARSHA BLACKBURN, TENNESSEE  
PHIL GINGREY, GEORGIA  
STEVE SCALISE, LOUISIANA

The Honorable Lisa Jackson  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Administrator Jackson:

I write with reference to certain EPA emails which raise serious questions about the integrity, transparency and completeness of the Environmental Protection Agency's (EPA) rulemaking process for the agency's proposed finding that carbon dioxide and other greenhouse gases endanger public health and welfare.

I recently learned of agency emails that suggest that substantive analysis that was critical of the proposed endangerment finding, and that had been prepared by the agency's own staff, was barred from agency consideration by supervising EPA officials, based on concerns of negative consequences for the office from which the analysis had been generated. Further, the emails suggest the staff analysis was suppressed because the Administrator and the Administration had already decided to go forward with the endangerment finding, and that the office's budget would be further reduced if analysis or comments critical of the proposed finding were forwarded (see emails, attached).

On March 16, 2009, an email from what is reported to be a senior career economist in EPA's National Center for Environmental Economics (NCEE) requested to have his comments on the proposed finding forwarded within an apparent deadline to the agency's Office of Air and Radiation which apparently was managing development of the proposed finding. In pertinent part, the email notes:

*"I believe my comments are valid, significant, and contain references to significant new research since the cut-off for IPCC and CCSP [climate science assessment] inputs. They are significant because they present information*

*critical to the justification (or lack thereof) for the proposed endangerment finding. They are valid because they explain much of the observational data that have been collected which cannot be explained by the IPCC models."*

A subsequent March 17, 2009, email from the Director of the NCEE refuses to submit the document for further agency consideration, based on concerns that you and the Administration had already decided to move forward and that forwarding comments critical of the finding would have negative impacts for the office of NCEE. In pertinent part the email reads:

*"The time for such discussion of fundamental issues has passed for this round. The administrator and the administration has [sic] decided to move forward on endangerment, and your comments do not help the legal or policy case for this decision.... I can only see one impact of your comments given where we are in the process, and that would be a very negative impact on our office."*

Following this exchange, the employee was directed to spend no more agency time on the EPA's endangerment finding. In an email of that same date, the Director of NCEE also noted that "our budget was cut by 66%."

I understand NCEE to be an office located in EPA's Office of Policy, Economics and Innovation (OPEI), and that OPEI is the primary policy arm of EPA and has responsibility for managing the development of regulations. The agency's website (<http://www.epa.gov/opei/>.) also indicates that NCEE "provides EPA with the expertise to take economic issues, such as benefits and costs, into account" and that it is a resource for information regarding "benefit-cost research techniques," "economic impact models and measures," and "economic incentive mechanisms."

These emails, to the extent they accurately reflect decisions and events in the run-up to your April 2009 proposed endangerment finding, raise serious questions not only about the completeness and reliability of the information you relied upon in making the proposed endangerment finding, but also whether you truly sought objective and complete information in exercising your judgment. Suppression of material information from EPA's own staff and concerns about budget cuts for offices that submit comments critical of the proposed endangerment finding also raise serious questions concerning the transparency and integrity of EPA's analyses and the atmosphere of open and free intellectual discourse at the Agency.

The issue of climate change policy as well as EPA's regulation of greenhouse gases has been at the forefront of Congressional deliberation in recent months. It is imperative that we can be assured EPA operates with full information when making its regulatory science decisions, that information or analysis is not suppressed, that critical offices within EPA that are involved in policy and cost analyses do not receive retaliatory budget cuts if they offer views contrary to those of the Administration, and that the process for these decisions, which Congress relies upon, is not driven by a political agenda or an atmosphere that chills open and honest agency deliberation.

Accordingly, I write to seek information and documents relating to the aforementioned emails. Given the serious implications and concerns raised by these emails, I believe it is incumbent upon you to provide an immediate explanation regarding agency procedures and directives you have implemented for collecting information relating to the proposed endangerment finding. Please respond within two weeks of the date of this letter to the following:

1. Did you issue any directive or instructions to any agency staff that research or analyses relating to the endangerment finding by agency staff cease?
2. Have you or the EPA received any instructions from the Administration, including the Executive Office of the President, to cease any ongoing agency inquiry and analyses relating to the proposed endangerment finding?
3. Have you issued any direction to the NCEE office not to conduct any further analyses relating to the proposed endangerment finding?
4. Has EPA been seeking to reduce the budget of the NCEE office within EPA?
5. If yes, given the importance of economic analysis to rulemaking, including the importance of cost-benefit analyses, why has the NCEE budget been reduced?
6. Please provide all staff analyses submitted by the NCEE to the OAR relating to the proposed endangerment finding.
7. Please provide the documents, including any draft analysis, prepared by Dr. Alan Carlin, as referenced in the aforementioned emails.
8. Please provide all directives and information you supplied to agency employees, or the relevant office or department directors, concerning your process for collecting agency staff comments on the proposed endangerment finding.

Please provide the written responses and documents requested by no later than two weeks from the date of this letter. I would respectfully request, if the Agency withholds any documents or information in response to this letter, that a Vaughan Index or log of the withheld items be attached to the response. The index should list the applicable question number, a description of the withheld item (including date of the item), the nature of the privilege or legal basis for the withholding, and a legal citation for the withholding claim.



Letter to the Honorable Lisa Jackson  
Page 4

Should you have any questions, please contact Mr. Peter Spencer of the Minority Committee staff at (202) 225-3641.

Sincerely,

A handwritten signature in black ink that reads "Joe Barton". The signature is written in a cursive style with a large, stylized "J" and "B".

Joe Barton  
Ranking Member

cc: The Honorable Henry A. Waxman  
Chairman

**Congress of the United States**  
**Washington, DC 20515**

July 27, 2010

Lisa Jackson, Administrator  
United States Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Ave. NW  
Washington, DC 20460

Re: Regulation of Coal Combustion Products

Dear Administrator Jackson,

This letter is presented in response to the Environmental Protection Agency's (EPA's) Proposed Rule regarding the first ever regulation of Coal Combustion Residuals (CCRs) under the Resource Conservation and Recovery Act (RCRA). Although EPA states that they are not reconsidering the "Beneficial Use" treatment of CCRs under this proposal, we feel that regulating CCRs under Subtitle D of RCRA is a far superior approach to insure the continued beneficial uses of this material. This designation would leave the Bevill determination in place and issue national minimum criteria. EPA would also establish additional safety requirements to address the structural integrity of surface storage of CCRs to prevent releases.

One such use expressly stated for the product is as an ingredient in concrete where the incorporation of CCRs has proven over decades of use to increase strength, improve longevity, enhance durability and provide improved cost effectiveness. Like its utilization in concrete, the use of CCRs in carpeting has proven to be a viable, safe, and environmentally preferable alternative to disposal.

Over the past 20 years detailed study by EPA concluded that the regulation of CCRs under Subtitle C is not warranted. Further, EPA's C2P2 initiative encourages the beneficial utilization of CCRs whenever possible. In just such an endeavor and with the full support of EPA, the nation's carpet and rug industry has been committed to incorporate CCRs into its product mix, and significant strides have been made to accomplish this objective. As a result, CCRs destined for a land fill have been recovered and processed to provide the carpet manufacturer with a functional ingredient (replacing a mined and processed material) that provides positive properties to the finished carpet product.

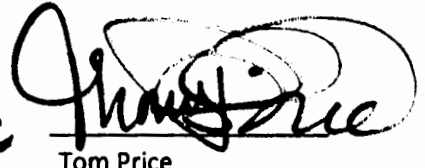
It is our concern that any treatment of Subtitle C to CCRs will affect efforts to beneficially utilize this abundant material as well as the position utilities may potentially take concerning distribution and/or sales of the material. Should EPA ignore the science of the issue and conclude; however, that Subtitle C is appropriate, beneficial uses—including those listed above—must be clearly spelled out and made exempt from the hazardous designation.

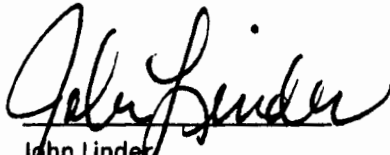
In conclusion, we encourage EPA to follow the option proposed that would regulate CCRs under Subtitle D of RCRA to insure the continued beneficial use of that material in the carpet and other industries. Thank you for your consideration of these concerns. we will be available should you desire additional information or input.

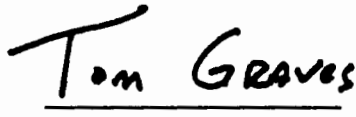
Sincerely,

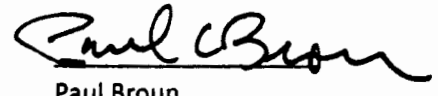
  
Jack Kingston  
Member of Congress

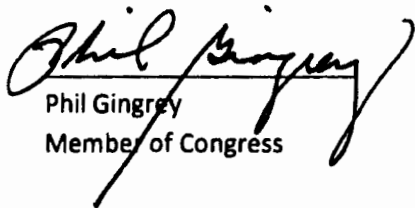
  
Lynn Westmoreland  
Member of Congress

  
Tom Price  
Member of Congress

  
John Linder  
Member of Congress

  
Tom Graves  
Member of Congress

  
Paul Broun  
Member of Congress

  
Phil Gingrey  
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 26 2010

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

The Honorable Phil Gingrey  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Gingrey:

Thank you for your letter of July 27, 2010, to U.S. Environmental Protection Agency (EPA) Administrator Lisa P. Jackson, regarding EPA's proposed rulemaking governing the management of coal combustion residuals (CCRs). I appreciate your interest in the beneficial use of CCRs, and the proposed rule.

In the proposed rule, EPA seeks public comment on two approaches available under the Resource Conservation and Recovery Act (RCRA). One option is drawn from remedies available under Subtitle C, which creates a comprehensive program of federally enforceable requirements for waste management and disposal. The other option includes remedies under Subtitle D, which gives EPA authority to set performance standards for waste management facilities which are narrower in scope and would be enforced primarily by those states who adopt their own coal ash management programs and by private citizen suits.

EPA is not proposing to regulate the beneficial use of CCRs. EPA continues to strongly support the safe and protective beneficial use of CCRs, including their use in concrete. However, EPA has identified concerns with some uses of CCRs in an unencapsulated form, in the event proper practices are not employed. The Agency is soliciting comment and information on these types of uses.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Raquel Snyder, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-9586.

Sincerely,

A handwritten signature in black ink that reads "Mathy Stanislaus". The signature is written in a cursive, flowing style.

Mathy Stanislaus  
Assistant Administrator

**Congress of the United States**  
**Washington, DC 20515**

May 12, 2011

The Honorable Lisa Jackson  
Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator Jackson:

We are writing to express our strong support for the addition of post consumer nylon carpet fiber to the Comprehensive Procurement Guidelines (CPG) list of sustainable products.

The CPG program achieves the worthy goal of incentivizing the use of post-consumer materials. In doing so, the program brings considerable environmental and economic benefits, among them being the reduction of solid waste to U.S. municipal landfills, and spurring the development of new technologies.

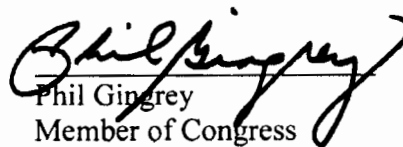
There is a strong case to be made for adding recycled nylon carpet fiber to the CPG's program list of approved designated materials. As you may know, two thirds of carpet collected today is made using nylon fiber. Since nylon is arguably a more resilient and longer lasting durable carpet fiber, and therefore more suitable for commercial and governmental installations, efforts to use nylon carpet fiber with recycled fiber content bring a much larger impact benefit than those for other materials, such as polyester. In addition to the benefit associated with U.S. landfill reduction, the recycling process for this sustainable product technology requires less energy and wastewater consumption.

As you know, EPA has proposed adding nylon fiber as a designated product. As the evaluation process moves forward regarding objective requirements associated with recycled content, etc., we respectfully request that you carefully consider these comments.

Sincerely,



H. Morgan Griffin  
Member of Congress



Phil Gingrey  
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUN 22 2011

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

The Honorable Phil Gingrey  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Gingrey:

Thank you for your letter of May 12, 2011, to the U.S. Environmental Protection Agency (EPA) in support of a nylon carpet comprehensive procurement guideline (CPG). The EPA started to develop a nylon carpet CPG in 2004, but delayed its efforts because of concerns about using a single environmental attribute test. Many at that time, including the majority of the carpet industry, believed that a multi-attribute standard that considered additional environmental attributes, such as energy conservation, air and water releases and material reduction was more appropriate than one that only considered recycled content. Since that time, several carpet manufacturers, the EPA, states and non-governmental organizations have worked together with NSF, a national standard writing body, to develop a consensus on a new, broader standard, the Sustainable Carpet Assessment NSF/ANSI 140-2007e. NSF 140 balances energy and water conservation with human health and environmental protection in addition to considering recycled content.

The EPA is considering discussions with the General Services Administration to acknowledge NSF 140 as an appropriate standard for federal purchasers to use. NSF 140 requires at its platinum level a minimum of 10% post consumer content recycled material. The EPA is also considering the addition of language that specifically requires post consumer carpet content, but we are waiting for the updated NSF 140 standard to be completed later this year.

Again, thank you for your letter. If you have further questions, please contact me or your staff may call Raquel Snyder, in EPA's Office of Congressional and Intergovernmental Relations, at (202) 564-9586.

Sincerely,

A handwritten signature in black ink, appearing to read "Mathy Stanislaus", is written over a horizontal line.

Mathy Stanislaus  
Assistant Administrator

Jun. 13. 2011 11:05AM

AL-11-000-9670

No. 0460 P. 2

**PHIL GINGREY**

11TH DISTRICT, GEORGIA  
WWW.HOUSE.GOV/GINGREY

U.S. CANNON HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
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(202) 225-2944 FAX

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(770) 429-1776

600 EAST 1ST STREET  
ROME, GA 30161  
(706) 290-1776

115 WEST CHEROKEE STREET  
CARTERSVILLE, GA 30120  
(678) 721-2509



**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

June 13, 2011

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COMMERCE, TRADE, AND CONSUMER  
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POLICY COMMITTEE

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WWW.DOCTORSCAUCUS.GINGREY.HOUSE.GOV

The Honorable Lisa P. Jackson  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20004

Dear Administrator Jackson:

Among the seven priorities that you have set for EPA is Assuring the Safety of Chemicals in our products, our environment, and our bodies. One of my constituents – Chemical Products Corporation (CPC), of Cartersville, Georgia – has requested you to effect timely enforcement of the Toxic Substances Control Act (TSCA) by the EPA so that violators may be restrained and penalized as required by law. CPC believes that it has fully complied with the law, and it is critically important that the EPA enforce this law uniformly.

Under 15 U.S.C. § 2603, the EPA requires certain chemicals to be tested to determine their potential for health and environmental hazards. Among these chemicals is 9,10-Anthracenedione CAS# 84-65-1, commonly known as anthraquinone or AQ for short. CPC has performed all of the required testing of this chemical – at significant expense – and submitted the requisite data to your agency.

CPC believes that several competitors are importing, processing, and/or selling AQ without complying with TSCA. If this is true, CPC faces a competitive disadvantage because it must incur costs not borne by their competitors. On August 18, 2010, CPC provided written notice of these violations to your agency (enclosed) and notified three violators (enclosed). Unfortunately, no action has been taken by the EPA on this matter.

Your urgent attention is needed to uphold this law. I would appreciate it if you would, at your earliest convenience, please review CPC's written notice. If you have any questions, please feel free to contact John O'Keefe in my Marietta, Georgia office at (770) 429-1776.

Sincerely,

Phil Gingrey, M.D.  
Member of Congress

# **Chemical Products Corporation**

102 Old Mill Road SE  
P.O. Box 2470  
Cartersville, Georgia  
30120-1692

Phone: 770-382-2144  
Fax: 770-388-6053  
e-mail: jcook@cpc-us.com

August 18, 2010

Ms. Catherine Roman, Project Manager  
U.S. EPA Chemical Information and Testing Branch  
Ariel Rios Building, Mail Code 7405M  
1200 Pennsylvania Avenue, N. W.  
Washington, DC 20460

Subject: Request that EPA enforce its TSCA Test Rule

Dear Ms. Roman;

Three companies have failed or refused to comply with the TSCA test rule published in the March 16, 2006 Federal Register [EPA-HQ-OPPT-2005-0033; FRL-7335-2]. This test rule required testing of 9,10-anthracenedione, CAS No. 84-65-1. These companies have repeatedly and frequently imported 9,10-anthracenedione since 2006 in violation of this TSCA test rule. A review of the docket shows that these companies have not submitted Declarations of Intent to Manufacture by Import or Requests for Exemption from Testing to EPA.

Chemical Products Corporation (CPC) has complied fully with the TSCA test rule and conducted the required testing on 9,10-anthracenedione (see Docket EPA-HQ-OPPT-2005-0033). We ask that EPA immediately take enforcement action against Ponda International, Inc., Heartland Technologies, Inc., and Bastech

Request that EPA enforce its TSCA test rule

Page 1 of 3



Chemical Products Corporation

because these companies have imported large quantities of 9,10-anthracenedione in violation of the above TSCA test rule, and they have ignored or refused requests from CPC for equitable reimbursement for a portion of CPC's TSCA testing costs. CPC has suffered significant economic hardship as a result of the activities of these three companies.

Imports of 9,10-anthracenedione, CAS number 84-65-1, often called 9,10-anthraquinone or anthraquinone, in violation of the above TSCA test rule continue unabated.

Anthraquinone is specifically designated in the U.S. Harmonized Tariff Code under the category "Quinones"; anthraquinone is specifically assigned number 2914.61.0000. Thus, imports by the following three companies since 2006 of anthraquinone (9,10-anthracenedione), CAS number 84-65-1, are unambiguously documented in U.S. customs records to be:

- Ponda International, Inc. - 23 separate importations totaling more than 2000 metric tons of 9,10-anthracenedione imported
- Heartland Technologies, Inc. - 9 separate importations totaling more than 345 metric tons of 9,10-anthracenedione imported
- Bastech, LLC - 5 separate importations totaling about 145 metric tons of 9,10-anthracenedione imported

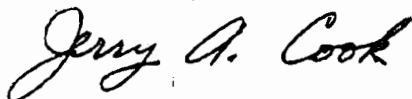
You have previously received copies of the letters CPC has sent these three companies seeking reimbursement for testing costs - copies of these letters are also enclosed herein. The owner of Ponda International, Inc., Ms. Yiran Mao, has responded

## Chemical Products Corporation

to CPC's first letter with a handwritten note saying that she owes CPC nothing for testing and then responded to CPC's second letter with a telephone voicemail message to me saying that she does not think that she owes CPC anything. Ponda International, Inc. and the others apparently believe that they can violate the TSCA test rule with impunity and avoid paying an equitable share of the costs to conduct the testing required by the TSCA test rule. We urgently request that EPA take decisive action to enforce its TSCA test rule.

We would greatly appreciate affirmation from you that EPA will take immediate action to enforce the TSCA test rule published in the March 16, 2006 Federal Register. If I can answer any questions concerning this letter or provide further information or documentation, please telephone me at 770-382-2144 or email me at [jcook@cpc-us.com](mailto:jcook@cpc-us.com).

Sincerely,



Jerry A. Cook  
Technical Director

Enclosures – copies of  
2 letters to Ponda International, Inc.  
letter to Heartland Technology, Inc.  
letter to Bastech, LLC

**CHEMICAL PRODUCTS CORPORATION**

CARTERSVILLE, GEORGIA 30120

POST OFFICE BOX 2470

TELEPHONE 770-382-2144  
FAX 770-388-6053

June 24, 2010

Ms. Yiran Mao  
PONDA International  
752 Middlefield Road  
Palo Alto, CA 94301

Subject: Notice Concerning Possible Violation of TSCA test rule by importation of 9,10-anthracenedione, CAS# 84-65-1 and Request for Reimbursement of costs Incurred by Chemical Products Corporation for testing 9,10-anthracenedione (anthraquinone) to satisfy Toxic Substance Control Act of 1976, 15 U.S.C. Sec. 2601, et seq ( "TSCA" ) test rule testing requirements.

Dear Ms. Mao,

On March 16, 2006 EPA promulgated a final test rule under TSCA section 4(a)(1)(B) and 15 U.S.C. section 2603(a)(1)(B)) that required manufacturers and processors of 9,10-anthracenedione (also known by the name anthraquinone), CAS # 84-65-1, to submit to EPA a declaration of intent to manufacture by import prior to importation of 9,10-anthracenedione, along with a statement of intent to conduct the testing required by EPA or an application for exemption from EPA's testing requirements based upon specific criteria.

15 U.S.C. section 2614 states that it is unlawful for any person to fail or refuse to comply with any rule promulgated under section 2603. 15 U.S.C. section 2615 states that any person who violates a provision of section 2614 shall be liable for a civil penalty of up to \$25,000 for each violation, with each day a violation continues constituting a separate violation.

Department of Commerce import records list your company as the importer of record for 9,10-anthracenedione (anthraquinone) on the following dates:

## CHEMICAL PRODUCTS CORPORATION

| DATE      | TEU's | DATE       | TEU's | DATE      | TEU's | DATE      | TEU's | DATE      | TEU's |
|-----------|-------|------------|-------|-----------|-------|-----------|-------|-----------|-------|
| 3/13/2007 | 8     | 9/29/2007  | 8     | 3/9/2008  | 10    | 9/19/2009 | 8     | 4/11/2010 | 10    |
| 4/2/2007  | 8.65  | 10/27/2007 | 8     | 4/2/2008  | 12    | 11/9/2009 | 10    | 5/8/2010  | 6     |
| 4/9/2007  | 12.12 | 1/5/2008   | 10    | 5/11/2008 | 6     | 2/10/2010 | 8     | 5/10/2010 | 2     |
| 4/21/2007 | 10.38 | 3/1/2008   | 10    | 6/8/2008  | 8     | 2/13/2010 | 4     |           |       |
| 5/5/2007  | 10.39 | 3/3/2008   | 10    | 11/3/2008 | 10    | 3/7/2010  | 6     |           |       |

1 TEU= 1 20 foot container (approx. 11,000 Kilograms of product)

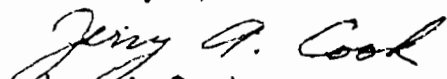
An examination of the EPA docket for the above test rule (EPA-HQ-OPPT-2005-0033) reveals no evidence that your company has submitted a declaration of intent to manufacture by import or an application for exemption from testing requirements. This may constitute a failure or refusal to comply with EPA's final rule promulgated under 15 U.S.C. section 2603.

Chemical Products Corporation (CPC) submitted a timely statement of intent to conduct the testing required for 9,10-anthracenedione, CAS # 84-65-1. The testing has been completed and the test results, as well as a robust summary, have been submitted to EPA. All other importers of 9,10-anthracenedione during the reimbursement period are liable for payment of a portion of the testing costs incurred by CPC.

It appears that your company may have failed or refused to comply with the above test rule promulgated under 15 U.S.C. 2603(a)(1)(B) and may be subject to civil penalties. Further, your company owes Chemical Products Corporation reimbursement for a portion of the costs we incurred in complying with the EPA's testing requirements.

Please contact us within the next 30 days to arrange payment of an equitable portion of the testing costs that we have incurred.

Thank you,

  
 Jerry A. Cook  
 Technical Director

cc: Ms. Catherine Roman, U.S. EPA

**CHEMICAL PRODUCTS CORPORATION**

CARTERSVILLE, GEORGIA 30120

POST OFFICE BOX 2470

TELEPHONE 770-382-2144  
FAX 770-386-6053

June 24, 2010

Ms. Bonnie K. Rumlow  
Heartland Technologies Sales of Oshkosh, Inc.  
1035 West 19<sup>th</sup> Avenue  
Oshkosh, WI 54902

Subject: Notice Concerning Possible Violation of TSCA test rule by importation of 9,10-anthracenedione, CAS# 84-85-1 and Request for Reimbursement of costs incurred by Chemical Products Corporation for testing 9,10-anthracenedione (anthraquinone) to satisfy Toxic Substance Control Act of 1976, 15 U.S.C. Sec. 2601, et seq ( "TSCA" ) test rule testing requirements.

Dear Ms. Rumlow,

On March 16, 2006 EPA promulgated a final test rule under TSCA section 4(a)(1)(B) and 15 U.S.C. section 2603(a)(1)(B)) that required manufacturers and processors of 9,10-anthracenedione (also known by the name anthraquinone), CAS # 84-85-1, to submit to EPA a declaration of intent to manufacture by import prior to importation of 9,10-anthracenedione, along with a statement of intent to conduct the testing required by EPA or an application for exemption from EPA's testing requirements based upon specific criteria.

15 U.S.C. section 2614 states that it is unlawful for any person to fail or refuse to comply with any rule promulgated under section 2603. 15 U.S.C. section 2615 states that any person who violates a provision of section 2614 shall be liable for a civil penalty of up to \$25,000 for each violation, with each day a violation continues constituting a separate violation.

Department of Commerce import records list your company as the importer of record for 9,10-anthracenedione (anthraquinone) on the following dates:

## CHEMICAL PRODUCTS CORPORATION

| DATE      | TEU's | DATE       | TEU's |
|-----------|-------|------------|-------|
| 5/19/2008 | 10    | 11/21/2009 | 2     |
| 6/15/2008 | 3.55  | 1/8/2010   | 1.78  |
| 6/16/2008 | 6     | 3/25/2010  | 1.78  |
| 8/28/2009 | 1.78  | 5/15/2010  | 3.56  |
| 9/22/2009 | 1     |            |       |

1 TEU= 1 20 foot container (approx. 11,000 Kilograms of product)

An examination of the EPA docket for the above test rule (EPA-HQ-OPPT-2005-0033) reveals no evidence that your company has submitted a declaration of intent to manufacture by import or an application for exemption from testing requirements. This may constitute a failure or refusal to comply with EPA's final rule promulgated under 15 U.S.C. section 2603.

Chemical Products Corporation (CPC) submitted a timely statement of intent to conduct the testing required for 9,10-anthracenedione, CAS # 84-65-1. The testing has been completed and the test results, as well as a robust summary, have been submitted to EPA. All other importers of 9,10-anthracenedione during the reimbursement period are liable for payment of a portion of the testing costs incurred by CPC.

It appears that your company may have failed or refused to comply with the above test rule promulgated under 15 U.S.C. 2603(a)(1)(B) and may be subject to civil penalties. Further, your company owes Chemical Products Corporation reimbursement for a portion of the costs we incurred in complying with the EPA's testing requirements.

Please contact us within the next 30 days to arrange payment of an equitable portion of the testing costs that we have incurred.

Thank you,

  
Jerry A. Cook  
Technical Director

cc: Ms. Catherine Roman, U.S. EPA

**CHEMICAL PRODUCTS CORPORATION**

CARTERSVILLE, GEORGIA 30120

POST OFFICE BOX 2470

TELEPHONE 770-382-2144  
FAX 770-386-6053

June 24, 2010

Mr. Gary Durrant  
Bastech, LLC  
3211 Powers Avenue  
Jacksonville, FL 32207

**Subject: Notice Concerning Possible Violation of TSCA test rule by importation of 9,10-anthracenedione, CAS# 84-65-1 and Request for Reimbursement of costs incurred by Chemical Products Corporation for testing 9,10-anthracenedione (anthraquinone) to satisfy Toxic Substance Control Act of 1976, 15 U.S.C. Sec. 2601, et seq ( "TSCA" ) test rule testing requirements.**

Dear Mr. Durrant,

On March 16, 2006 EPA promulgated a final test rule under TSCA 4(a)(1)(B) and 15 U.S.C. 2603(a)(1)(B)) that required manufacturers and processors of 9,10-anthracenedione (also known by the name anthraquinone), CAS # 84-65-1, to submit to EPA a declaration of intent to manufacture by import prior to importation of 9,10-anthracenedione, along with a statement of intent to conduct the testing required by EPA or an application for exemption from EPA's testing requirements based upon specific criteria.

15 U.S.C. section 2614 states that it is unlawful for any person to fail or refuse to comply with any rule promulgated under section 2603. 15 U.S.C. section 2615 states that any person who violates a provision of section 2614 shall be liable for a civil penalty of up to \$25,000 for each violation, with each day a violation continues constituting a separate violation.

Department of Commerce import records list your company as the importer of record for 9,10-anthracenedione (anthraquinone) on the following dates:

## CHEMICAL PRODUCTS CORPORATION

| DATE       | TEU's |
|------------|-------|
| 3/3/2007   | 1.2   |
| 3/31/2007  | 4.68  |
| 6/1/2007   | 3.12  |
| 11/12/2007 | 2     |
| 1/13/2008  | 2     |

1 TEU= 1 20 foot container (approx. 11,000 kg. of product)

An examination of the EPA docket for the above test rule (EPA-HQ-OPPT-2005-0033) reveals no evidence that your company has submitted a declaration of intent to manufacture by import or an application for exemption from testing requirements. This may constitute a failure or refusal to comply with EPA's final rule promulgated under 15 U.S.C. section 2603.

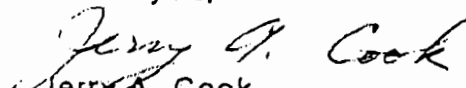
Chemical Products Corporation (CPC) submitted a timely statement of intent to conduct the testing required for 9,10-anthracenedione, CAS #

84-65-1. The testing has been completed and the test results, as well as a robust summary, have been submitted to EPA. All other importers of 9,10-anthracenedione during the reimbursement period are liable for payment of a portion of the testing costs incurred by CPC.

It appears that your company may have failed or refused to comply with the above test rule promulgated under 15 U.S.C. 2603(a)(1)(B) and may be subject to civil penalties. Further, your company owes Chemical Products Corporation reimbursement for a portion of the costs we incurred in complying with the EPA's testing requirements.

Please contact us within the next 30 days to arrange payment of an equitable portion of the testing costs that we have incurred.

Thank you,

  
Jerry A. Cook  
Technical Director

cc: Ms. Catherine Roman, U.S. EPA





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 11 2011

ASSISTANT ADMINISTRATOR  
FOR ENFORCEMENT AND  
COMPLIANCE ASSURANCE

The Honorable Phil Gingrey, M.D.  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Gingrey:

Thank you very much for your letter dated June 13, 2011, to Administrator Jackson relaying Chemical Products Corporation's (CPC) concern with possible noncompliance by its competitors with the Toxic Substances Control Act (TSCA). Because your letter concerns an enforcement-related matter, I have been asked to reply on the Administrator's behalf.

We are very appreciative of CPC's willingness to comply with the applicable TSCA testing requirements and are committed to ensuring that CPC is not at a competitive disadvantage for complying with the law. We also appreciate CPC's concern about industry-wide compliance and its willingness to provide information about its competitors' failure to comply with the TSCA testing requirements for 9,10 Anthracenedione, Chemical Abstract Service Registry Number 84-65-1. I can assure you that EPA is evaluating the information CPC provided and investigating the allegations made by CPC.

Again, thank you for your letter. If you have further questions, please contact me, or your staff may call Carolyn Levine in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-1859.

Sincerely,

A handwritten signature in black ink, which appears to read "Cynthia Giles", is written over the typed name.

Cynthia Giles

**Congress of the United States**  
Washington, DC 20515

Charles  
CCY  
Stephane  
Judy  
John  
Anthony  
Cynthia  
Chris  
Jim W

March 10, 2006

Stephen L. Johnson, Administrator  
U.S. Environmental Protection Agency  
Ariel Rios Federal Building Rm. 3204  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-0001

Dear Mr. Johnson:

We are writing to urge that you act expeditiously in granting the Petition for Exemption from EPCRA and CERCLA Release Reporting Requirements for Ammonia Emissions from Poultry Operations that was submitted by the broiler and turkey industry on August 5, 2005, and recently published by the Agency for comment. 70 Federal Register 76452 (Dec. 27, 2005).


Poultry producers in the State of Georgia are committed to meeting their environmental obligations and complying with all appropriate requirements to protect air quality. Producers are funding and participating in the Agency's ongoing studies under the Air Compliance Agreement to gather the information needed for determining whether controls on ammonia emissions should be required pursuant to the Clean Air Act, and producers will cooperate with EPA to identify any emission control needs that might be documented by those studies.

The Petition addresses a fundamentally different issue. EPA should grant the request for exemption in order to relieve unjustified "emergency" release reporting burdens and potential liability faced by farmers. This action will entail no sacrifice of environmental quality and will not impair the ability of emergency responders to meet their responsibilities.

On the contrary, the exemption will eliminate the burden on response agencies from potentially thousands of "emergency" reports concerning well-known, routine, low-level ammonia releases, allowing those agencies to focus resources on true chemical release emergencies.

For these reasons, we ask that you act expeditiously in granting the petition. Thank you for your attention to this matter, and we look forward to working with you on this issue.

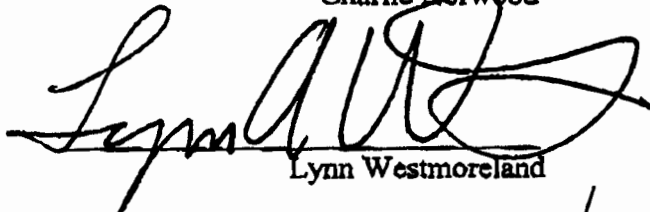
Respectfully,

  
Nathan Deal

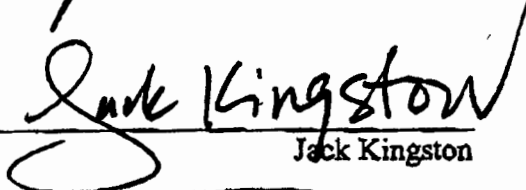
  
Sanford Bishop


  
Charlie Norwood

  
David Scott

  
Lynn Westmoreland

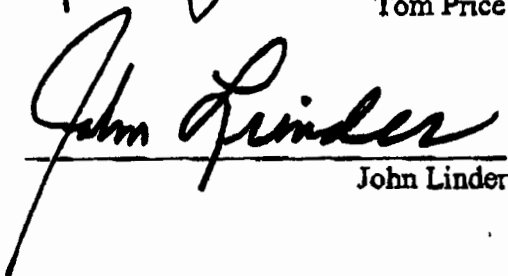
  
John Barrow

  
Jack Kingston

  
Jim Marshall

  
Tom Price

  
Phil Gingrey

  
John Linder



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 06 2006

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

The Honorable Phil Gingrey  
United States House of Representatives  
119 Cannon House Office Building  
Washington, DC 20515


Dear Congressman Gingrey:

Thank you for your letter of March 10, 2006, to Administrator Johnson urging the Agency to act expeditiously in granting the petition for exemption from the Emergency Planning and Community Right-to-Know Act (EPCRA) and Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) reporting requirements for ammonia emissions from poultry operations. As you noted in your letter, that petition was submitted to the Agency on August 5, 2005, and published in the *Federal Register* on December 27, 2005. I appreciate your concern regarding the status of the petition and your desire for the Agency to act expeditiously in its decision whether to grant the petition.

The *Federal Register* notice allows for a public comment period on the petition that will close on March 27, 2006. Consideration of public comments submitted during this period will be an important part of the Agency's review and decision-making process regarding the petition.

Again, thank you for sharing your concerns and those of your colleagues with the Agency. If you have further questions or would like information regarding the progress of the petition's review, please contact me, or your staff may contact Carolyn Levine in the Office of Congressional and Intergovernmental Relations, at (202) 564-1859.

Sincerely,

  
Susan Parker Bodine  
Assistant Administrator